

Board of Governors of the Federal Reserve System

Regulation J

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through the Fedwire Funds Service and the FedNow Service

12 CFR 210; as amended effective October 1, 2022



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AUTHORITY: 12 U.S.C. 248(i), (j), and 248-1, 342, 360, 464, 4001-4010, and 5001-5018.

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SUBPART A—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS

SECTION 210.1—Authority, Purpose, and Scope

The Board of Governors of the Federal Reserve System (Board) has issued this subpart pursuant to the Federal Reserve Act, section 11(i) and (j) (12 U.S.C. 248(i) and (j)), section 13 (12 U.S.C. 342), section 16 (12 U.S.C. 248(o) and 360), and section 19(f) (12 U.S.C. 464); the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*); the Check Clearing for the 21st Century Act (12 U.S.C. 5001-5018); and other laws. This subpart governs the collection of checks and other cash and noncash items and the handling of returned checks by Federal Reserve Banks. Its purpose is to provide rules for collecting and returning items and settling balances.

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SECTION 210.2—Definitions

As used in this subpart, unless the context otherwise requires:

Account means an account on the books of a Federal Reserve Bank. A subaccount is an informational record of a subset of transactions that affect an account and is not a separate account.

Actually and finally collected funds means cash or any other form of payment that is, or has become, final and irrevocable.

Administrative Reserve Bank with respect to an entity means the Reserve Bank in whose District the entity is located, as determined under the procedure described in section 204.3(g) of this chapter (Regulation D), even if the entity is not otherwise subject to that section.

Bank means any person engaged in the business of banking. A branch or separate office of a bank is a separate bank to the extent provided in the Uniform Commercial Code.

Bank draft means a check drawn by one bank on another bank.

Banking day means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

Cash item means—

- (1) a check other than one classified as a noncash item under this section; or
- (2) any other item payable on demand and collectible at par that the Reserve Bank that receives the item is willing to accept as a cash item. *Cash item* does not include a returned check.

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Check means a check or an electronic check, as those terms are defined in section 229.2 of this chapter (Regulation CC).

Clock hour and *clock half-hour*.

- (1) *Clock hour* means a time that is on the hour, such as 1:00, 2:00, etc.
- (2) *Clock half-hour* means a time that is on the half-hour, such as 1:30, 2:30, etc.

Fedwire Funds Service and *Fedwire* have the same meaning as that set forth in section 210.26.

Item.

(1) Means—

(i) an instrument or a promise or order to pay money, whether negotiable or not, that is—

(A) payable in a Federal Reserve District¹ (District);

(B) sent by a sender to a Reserve Bank for handling under this subpart; and

(C) collectible in funds acceptable to the Reserve Bank of the District in which the instrument is payable; or

(ii) a check.

(2) Unless otherwise indicated, *item* includes both a cash and a noncash item, and includes a returned check sent by a paying or returning bank. *Item* does not include a check that cannot be collected at par, or a payment order as defined in section 210.26(i) and handled under subpart B of this part. The term also does not include an electronically-created item as defined in section 229.2 of this chapter (Regulation CC).

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Nonbank payor means a payor of an item, other than a bank.

Noncash item means an item that a receiving Reserve Bank classifies in its operating circulars as requiring special handling. The term also means an item normally received as a cash item if a Reserve Bank decides that special conditions require that it handle the item as a noncash item.

Paying bank means—

- (1) the bank by which an item is payable unless the item is payable or collectible at or through another bank and is sent to the other bank for payment or collection;
- (2) the bank at or through which an item is payable or collectible and to which it sent for payment or collection; or
- (3) the bank whose routing number appears on a check in the MICR line or in fractional form (or in the MICR-line information that accompanies an electronic item)

¹ For purposes of this subpart, the Virgin Islands and Puerto Rico are deemed to be in the Second District, and Guam, American Samoa, and the Northern Mariana Islands in the Twelfth District.

and to which the check is sent for payment or collection.

Returned check means a cash item returned by a paying bank, including an electronic returned check as defined in section 229.2 of this chapter (Regulation CC) and a notice of nonpayment in lieu of a returned check, whether or not a Reserve Bank handled the check for collection.

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Sender means any of the following entities that sends an item to a Reserve Bank for forward collection—

- (1) a depository institution, as defined in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b));
- (2) a member bank, as defined in section 1 of the Federal Reserve Act (12 U.S.C. 221);
- (3) a clearing institution, defined as—
 - (i) an institution that is not a depository institution but that maintains with a Reserve Bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342); or
 - (ii) an Edge corporation or agreement corporation that maintains an account with a Reserve Bank in conformity with part 211 of this chapter (Regulation K);
- (4) another Reserve Bank;
- (5) an international organization for which a Reserve Bank is empowered to act as depository or fiscal agent and maintains an account;
- (6) a foreign correspondent, defined as any of the following entities for which a Reserve Bank maintains an account: A foreign bank or banker, a foreign state as defined in section 25(b) of the Federal Reserve Act (12 U.S.C. 632), or a foreign correspondent or agency referred to in section 14(e) of that act (12 U.S.C. 358); or
- (7) a branch or agency of a foreign bank maintaining reserves under section 7 of the International Banking Act of 1978 (12 U.S.C. 347d, 3105).

State means a state of the United States, the District of Columbia, Puerto Rico, or a territory, possession, or dependency of the United States.

Uniform Commercial Code and *U.C.C.* mean the Uniform Commercial Code as adopted in a state.

Terms not defined in this section. Unless the context otherwise requires—

- (1) the terms not defined herein have the meanings set forth in section 229.2 of this chapter applicable to subpart C or D of part 229 of this chapter (Regulation CC), as appropriate; and
- (2) the terms not defined herein or in section 229.2 of this chapter have the meanings set forth in the Uniform Commercial Code.

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SECTION 210.3—General Provisions

(a) *General.* Each Reserve Bank shall receive and handle items in accordance with this subpart, and shall issue operating circulars governing the details of its handling of items and other matters deemed appropriate by the Reserve Bank. The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, provide different closing times for the receipt of different classes or types of items, provide for instructions by an Administrative Reserve Bank to other Reserve Banks, set forth terms of services, and establish procedures for adjustments on a Reserve Bank's books, including amounts, waiver of expenses, and payment of compensation. As deemed appropriate by the Reserve Bank, the circulars may also require the sender to provide warranties and indemnities that only items and any noncash items the Reserve Banks have agreed to handle will be sent to the Reserve Banks. The Reserve Banks may provide to a subsequent collecting bank and to the paying bank any warranties and indemnities provided by the sender pursuant to this paragraph (a).

(b) *Binding effect.* This subpart, together with subparts C and D of part 229 and the operating circulars of the Reserve Banks, are binding on all parties interested in an item handled by any Reserve Bank.

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(c) *Government items.* As depositaries and fis-

cal agents of the United States, Reserve Banks handle certain items payable by the United States or certain federal agencies as cash or noncash items. To the extent provided by regulations issued by, and arrangements made with, the United States Treasury Department and other government departments and agencies, the handling of such items is governed by this subpart. The Reserve Banks shall include in their operating circulars such information regarding these regulations and arrangements as the Reserve Banks deem appropriate.

(d) *Government senders.* Except as otherwise provided by statutes of the United States, or regulations issued or arrangements made thereunder, this subpart and the operating circulars of the Reserve Banks apply to the following when acting as a sender: a department, agency, instrumentality, independent establishment, or office of the United States, or a wholly owned or controlled government corporation, that maintains or uses an account with a Reserve Bank.

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(e) *Foreign items.* A Reserve Bank also may receive and handle certain items payable outside a Federal Reserve District, as provided in its operating circulars. The handling of such items in a state is governed by this subpart, and the handling of such items outside a state is governed by the local law.

(f) *Relation to other law.* The provisions of this subpart supersede any inconsistent provisions of the Uniform Commercial Code, of any other state law, or of part 229 of this title, but only to the extent of the inconsistency.

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SECTION 210.4—Sending Items to Reserve Banks

(a) *Sending of items.* A sender's Administrative Reserve Bank may direct a sender other than a Reserve Bank to send any item to a specified Reserve Bank, whether or not the item is payable in the Reserve Bank's district.

(b) *Handling of items.*

(1) The following parties, in the following

order, are deemed to have handled an item that is sent to a Reserve Bank for collection:

(i) The initial sender;

(ii) The initial sender's Administrative Reserve Bank (which is deemed to have accepted deposit of the item from the initial sender);

(iii) The Reserve Bank that receives the item from the initial sender (if different from the initial sender's Administrative Reserve Bank); and

(iv) Another Reserve Bank, if any, that receives the item from a Reserve Bank.

(2) A Reserve Bank that is not described in paragraph (b)(1) of this section is not a person that handles an item and is not a collecting bank with respect to an item.

(3) The identity and order of the parties under paragraph (b)(1) of this section determine the relationships and the rights and liabilities of the parties under this subpart, part 229 of this chapter (Regulation CC), section 13(1) and section 16(13) of the Federal Reserve Act, and the Uniform Commercial Code. An initial sender's Administrative Reserve Bank that is deemed to accept an item for deposit or handle an item is also deemed to be a sender with respect to that item. The Reserve Banks that are deemed to handle an item are deemed to be agents or subagents of the owner of the item, as provided in section 210.6(a).

(c) *Checks received at par.* The Reserve Banks shall receive cash items and other checks at par.

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SECTION 210.5—Sender's Agreement; Recovery by Reserve Bank

(a) *Sender's agreement.* The warranties, indemnities, authorizations, and agreements made pursuant to this paragraph (a) may not be disclaimed and are made whether or not the item bears an indorsement of the sender. By sending an item to a Reserve Bank, the sender does all of the following.

(1) *Authorization to handle item.* The sender authorizes the sender's Administra-

tive Reserve Bank and any other Reserve Bank or collecting bank to which the item is sent to handle the item (and authorizes any Reserve Bank that handles settlement for the item to make accounting entries), subject to this subpart and to the Reserve Banks' operating circulars, and warrants its authority to give this authorization.

(2) *Warranties for all items.* The sender warrants to each Reserve Bank handling the item that—

- (i) The sender is a person entitled to enforce the item or authorized to obtain payment of the item on behalf of a person entitled to enforce the item;
- (ii) The item has not been altered; and
- (iii) The item bears all indorsements applied by parties that previously handled the item for forward collection or return.

(3) *Warranties and indemnities as set forth in Regulation CC and UCC.* As applicable and unless otherwise provided, the sender of an item makes to each Reserve Bank that handles the item all the warranties and indemnities set forth in and subject to the terms of subparts C and D of part 229 of this chapter (Regulation CC) and article 4 of the UCC. The sender makes all the warranties set forth in and subject to the terms of 4-207 of the UCC for an electronic check as if it were an item subject to the UCC.

(4) *Warranties and indemnities as set forth in Reserve Bank operating circulars.* The sender makes any warranties and indemnities regarding the sending of items as set forth in an operating circular issued in accordance with section 210.3(a).

(5) *Sender's liability to Reserve Bank.*

(i) Except as provided in paragraphs (a)(5)(ii) and (iii) of this section, the sender agrees to indemnify each Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from—

- (A) The sender's lack of authority to make the warranty in paragraph (a)(1) of this section;
- (B) Any action taken by the Reserve Bank within the scope of its authority in handling the item; or
- (C) Any warranty or indemnity made

by the Reserve Bank under section 210.6(b), part 229 of this chapter, the UCC, or, regarding the sending of items, an operating circular issued in accordance with section 210.3(a).

(ii) A sender's liability for warranties and indemnities that the Reserve Bank makes for a substitute check, a paper or electronic representation thereof, or for an electronic check is subject to the following conditions and limitations—

(A) A sender of an original check shall not be liable under paragraph (a)(5)(i) of this section for any amount that the Reserve Bank pays under subpart D of part 229 of this chapter, or under section 229.34 of this chapter with respect to an electronic check, absent the sender's agreement to the contrary; and

(B) Nothing in this subpart alters the liability of a sender of a substitute check or paper or electronic representation of a substitute check under subpart D of part 229 of this chapter, or a sender of an electronic check under section 229.34 of this chapter.

(iii) A sender shall not be liable for any amount that the Reserve Bank pays under this subpart or part 229 of this chapter that is attributable to the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

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(b) *Sender's liability under other law.* Nothing in paragraph (a) of this section limits any warranty or indemnity by a sender (or a person that handled an item prior to the sender) arising under state law or regulation (such as the UCC), other federal law or regulation (such as part 229 of this chapter), or an agreement with a Reserve Bank.

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(c) *Recovery by Reserve Bank.*

(1) A Reserve Bank that has handled an item may recover as provided in paragraph (c)(2) of this section if an action or proceeding is brought against (or if defense is tendered to) the Reserve Bank based on—

- (i) The alleged failure of the sender to

have the authority to make the warranty and agreement in paragraph (a)(1) of this section;

(ii) Any action by the Reserve Bank within the scope of its authority in handling the item; or

(iii) Any warranty or indemnity made by the Reserve Bank under section 210.6(b), part 229 of this chapter, or the UCC.

(2) Upon entry of a final judgment or decree in an action or proceeding described in paragraph (c)(1) of this section, a Reserve Bank may recover from the sender the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay because of the judgment or decree or the tender of defense, together with interest thereon.

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(d) *Methods of recovery.*

(1) The Reserve Bank may recover the amount stated in paragraph (c) of this section by charging any account on its books that is maintained or used by the sender (or by charging a Reserve Bank sender), if—

(i) The Reserve Bank made reasonable written demand on the sender to assume defense of the action or proceeding; and

(ii) The sender has not made any other arrangement for payment that is acceptable to the Reserve Bank.

(2) The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. A Reserve Bank that has been charged under this paragraph (d) may recover from its sender in the manner and under the circumstances set forth in this paragraph (d).

(3) A Reserve Bank's failure to avail itself of the remedy provided in this paragraph (d) does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (a)(5) of this section.

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(e) *Security interest.* When a sender sends an item to a Reserve Bank, the sender and any prior collecting bank grant to the sender's Administrative Reserve Bank a security interest

in all of their respective assets in the possession of, or held for the account of, any Reserve Bank to secure their respective obligations due or to become due to the Administrative Reserve Bank under this subpart or subpart C or D of part 229 of this chapter (Regulation CC). The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender or prior collecting bank, or if the sender or prior collecting bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

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SECTION 210.6—Status, Warranties, and Liability of Reserve Banks

(a)

(1) *Status.* A Reserve Bank that handles an item shall act as agent or subagent of the owner with respect to the item. This agency terminates when a Reserve Bank receives final payment for the item in actually and finally collected funds, a Reserve Bank makes the proceeds available for use by the sender, and the time for commencing all actions against the Reserve Bank has expired.

(2) *Limitations on Reserve Bank liability.* A Reserve Bank shall not have or assume any liability with respect to an item or its proceeds except—

(i) For the Reserve Bank's own lack of good faith or failure to exercise ordinary care;

(ii) As provided in paragraph (b) of this section;

(iii) As provided in an operating circular issued in accordance with section 210.3(a) regarding the sending of items; and

(iv) As provided in subparts C and D of part 229 of this chapter (Regulation CC).

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(3) *Reliance on routing designation appearing on item.* A Reserve Bank may present or send an item based on the routing number or other designation of a paying bank or nonbank payor appearing in any form on the item when the Reserve Bank receives it. A Reserve Bank shall not be responsible for any delay resulting from its acting on any designation, whether inscribed by magnetic ink or by other means, and whether or not the designation acted on is consistent with any other designation appearing on the item.

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(b) *Warranties and liability.* The following provisions apply when a Reserve Bank presents or sends an item.

(1) *Warranties for all items.* The Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor that—

- (i) The Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person that is either entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item);
- (ii) The item has not been altered; and
- (iii) The item bears all indorsements applied by parties that previously handled the item for forward collection or return.

(2) *Warranties and indemnities as set forth in Reserve Bank operating circulars.* The Reserve Bank makes any warranties and indemnities regarding the sending of items as set forth in an operating circular issued in accordance with section 210.3(a).

(3) *Warranties and indemnities as set forth in Regulation CC and UCC.* As applicable and unless otherwise provided, the Reserve Bank makes all the warranties and indemnities set forth in and subject to the terms of subparts C and D of part 229 of this chapter (Regulation CC) and article 4 of the UCC. The Reserve Bank makes all the warranties set forth in and subject to the terms of 4-207 of the UCC for an electronic check as if it were an item subject to the UCC.

(4) *Indemnity for substitute check created from an electronic check.*

(i) Except as provided in paragraph (b)(4)(ii) of this section, the Reserve Bank shall indemnify the bank to which it transfers or presents an electronic check (the recipient bank) for the amount of any losses that the recipient bank incurs under subpart D of part 229 of this chapter (Regulation CC) for an indemnity that the recipient bank was required to make under subpart D of part 229 of this chapter in connection with a substitute check later created from the electronic check.

(ii) The Reserve Bank shall not be liable under paragraph (b)(4)(i) of this section for any amount that the recipient bank pays under subpart D of part 229 of this chapter that is attributable to the lack of good faith or failure to exercise ordinary care of the recipient bank or a person that handled the item, in any form, after the recipient bank.

9-789.1

(c) *Time for commencing action against Reserve Bank.*

(1) A claim against a Reserve Bank for lack of good faith or failure to exercise ordinary care shall be barred unless the action on the claim is commenced within two years after the claim accrues. Such a claim accrues on the date when a Reserve Bank's alleged failure to exercise ordinary care or to act in good faith first results in damages to the claimant.

(2) A claim that arises under paragraph (b)(3) of this section shall be barred unless the action on the claim is commenced within one year after the claim accrues. Such a claim accrues as of the date on which the claimant first learns, or by which the claimant reasonably should have learned, of the facts and circumstances giving rise to the claim.

(3) This paragraph (c) does not alter the time limit for claims under section 229.38(g) of this chapter (which include claims for breach of warranty under section 229.34 of this chapter) or subpart D of part 229 of this chapter.

9-790**SECTION 210.7—Presenting Items for Payment**

(a) *Presenting or sending.* As provided under state law or as otherwise permitted by this section—

- (1) A Reserve Bank or a subsequent collecting bank may present an item for payment or send the item for presentment and payment; and
- (2) A Reserve Bank may send an item to a subsequent collecting bank with authority to present it for payment or to send it for presentment and payment.

(b) *Place of presentment.* A Reserve Bank or subsequent collecting bank may present an item—

- (1) At a place requested by the paying bank;
- (2) In accordance with section 229.36 of this chapter (Regulation CC);
- (3) At a place requested by the nonbank payor, if the item is payable by a nonbank payor other than through or at a paying bank;
- (4) Under a special collection agreement consistent with this subpart; or
- (5) Through a clearinghouse and subject to its rules and practices.

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(c) *Presenting or sending direct.* A Reserve Bank or subsequent collecting bank may, with respect to an item that may be sent to the paying bank or nonbank payor in the Reserve Bank's District—

- (1) present or send the item direct to the paying bank, or to a place requested by the paying bank; or
- (2) if the item is payable by a nonbank payor other than through a paying bank, present it direct to the nonbank payor. Documents, securities, or other papers accompanying a noncash item shall not be delivered to the nonbank payor before the item is paid unless the sender specifically authorizes delivery.

(d) *Item sent to another District.* A Reserve Bank receiving an item that may be sent to a paying bank or nonbank payor in another Dis-

trict ordinarily sends the item to the Reserve Bank of the other District, but with the agreement of the other Reserve Bank, may present or send the item as if it were sent to a paying bank or nonbank payor in its own District.

9-792**SECTION 210.8—Presenting Noncash Items for Acceptance**

(a) A Reserve Bank or a subsequent collecting bank may, if instructed by the sender, present a noncash item for acceptance in any manner authorized by law if—

- (1) The item provides that it must be presented for acceptance;
- (2) The item is presented elsewhere than at the residence or place of business of the payor; or
- (3) The date of payment of the item depends on presentment for acceptance.

(b) Documents accompanying a noncash item shall not be delivered to the payor upon acceptance of the item unless the sender specifically authorizes delivery. A Reserve Bank shall not have or assume any other obligation to present or to send for presentment for acceptance any noncash item.

9-793**SECTION 210.9—Settlement and Payment**

(a) *Settlement through administrative Reserve Bank.* A paying bank shall settle for an item under this subpart with its administrative Reserve Bank, whether or not the paying bank received the item from that Reserve Bank. A paying bank's settlement with its administrative Reserve Bank is deemed to be settlement with the Reserve Bank from which the paying bank received the item. A paying bank may settle for an item using any account on a Reserve Bank's books by agreement with its administrative Reserve Bank, any other Reserve Bank holding the settlement account, and the account holder. The paying bank remains responsible for settlement if the Reserve Bank holding the settlement account

does not, for any reason, obtain settlement in that account.

9-793.01

(b) *Cash items.*

(1) *Settlement obligation.* On the day a paying bank receives² a cash item from a Reserve Bank, it shall settle for the item such that the proceeds of the settlement are available to its administrative Reserve Bank by the close of Fedwire on that day, or it shall return the item by the later of the close of its banking day or the close of Fedwire. If the paying bank fails to settle for or return a cash item in accordance with this paragraph (b)(1), it is accountable for the amount of the item as of the close of its banking day or the close of Fedwire on the day it receives the item, whichever is earlier.

(2) *Time of settlement.*

(i) On the day a paying bank receives a cash item from a Reserve Bank, it shall settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank, or return the item, by the latest of—

(A) The next clock hour or clock half-hour that is at least one half-hour after the paying bank receives the item;

(B) 8:30 a.m. eastern time; or

(C) Such later time as provided in the Reserve Banks' operating circulars.

(ii) If the paying bank fails to settle for or return a cash item in accordance with paragraph (b)(2)(i) of this section, it shall be subject to any applicable overdraft charges. Settlement under paragraph (b)(2)(i) of this section satisfies the settlement requirements of paragraph (b)(1) of this section.

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(3) *Paying bank closes voluntarily.*

(i) If a paying bank closes voluntarily so that it does not receive a cash item on a day that is a banking day for a Reserve

Bank, and the Reserve Bank makes a cash item available to the paying bank on that day, the paying bank shall either—

(A) On that day, settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank, or return the item, by the latest of the next clock hour or clock half-hour that is at least one half-hour after it ordinarily would have received the item, 8:30 a.m. eastern time, or such later time as provided in the Reserve Banks' operating circulars; or

(B) On the next day that is a banking day for both the paying bank and the Reserve Bank, settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank by 8:30 a.m. eastern time on that day or such later time as provided in the Reserve Banks' operating circulars; and compensate the Reserve Bank for the value of the float associated with the item in accordance with procedures provided in the Reserve Bank's operating circular.

(ii) If a paying bank closes voluntarily so that it does not receive a cash item on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes a cash item available to the paying bank on that day, the paying bank is not considered to have received the item until its next banking day, but it shall be subject to any applicable overdraft charges if it fails to settle for or return the item in accordance with paragraph (b)(3)(i) of this section. The settlement requirements of paragraphs (b)(1) and (2) of this section do not apply to a paying bank that settles in accordance with paragraph (b)(3)(i) of this section.

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(4) *Reserve Bank closed.* If a paying bank receives a cash item from a Reserve Bank on a banking day that is not a banking day for the Reserve Bank, the paying bank shall—

(i) Settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank by the

² A paying bank is deemed to receive a cash item on its next banking day if it receives the item (1) on a day other than a banking day for it; or (2) on a banking day for it, but after a "cutoff hour" established by it in accordance with state law.

close of the Fedwire Funds Service on the Reserve Bank's next banking day, or return the item by midnight of the day it receives the item (if the paying bank fails to settle for or return a cash item in accordance with this paragraph (b)(4)(i), it shall become accountable for the amount of the item as of the close of its banking day on the day it receives the item); and

(ii) Settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank by 8:30 a.m. eastern time on the Reserve Bank's next banking day or such later time as provided in the Reserve Bank's operating circular, or return the item by midnight of the day it receives the item. If the paying bank fails to settle for or return a cash item in accordance with this paragraph (b)(4)(ii), it shall be subject to any applicable overdraft charges. Settlement under this paragraph (b)(4)(ii) satisfies the settlement requirements of paragraph (b)(4)(i) of this section.

9-793.3

(5) *Manner of settlement.* Settlement with a Reserve Bank under paragraphs (b)(1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books or other form of settlement to which the Reserve Bank agrees, except that the Reserve Bank may, in its discretion, obtain settlement by charging the paying bank's account. A paying bank may not set off against the amount of a settlement under this section the amount of a claim with respect to another cash item, cash letter, or other claim under section 229.34 of this chapter (Regulation CC) or other law.

(6) *Notice in lieu of return.* If a cash item is unavailable for return, the paying bank may send a notice in lieu of return as provided in section 229.31(f) of this chapter (Regulation CC).

9-794

(c) *Noncash items.* A Reserve Bank may require the paying or collecting bank to which it has presented or sent a noncash item to pay for the item by a debit to an account main-

tained or used by the paying or collecting bank on the Reserve Bank's books or by any other form of settlement acceptable to the Reserve Bank.

(d) *Nonbank payor.* A Reserve Bank may require a nonbank payor to which it has presented an item to pay for it by debit to an account on the Reserve Bank's books or other form of settlement acceptable to the Reserve Bank.

9-795

(e) *Liability of Reserve Bank.* Except as set forth in section 229.35(b) of this chapter (Regulation CC), a Reserve Bank shall not be liable for the failure of a collecting bank, paying bank, or nonbank payor to pay for an item, or for any loss resulting from the Reserve Bank's acceptance of any form of payment other than cash authorized in paragraphs (b), (c), and (d) of this section. A Reserve Bank that acts in good faith and exercises ordinary care shall not be liable for the nonpayment of, or failure to realize upon, any noncash form of payment that it accepts under paragraphs (b), (c), and (d) of this section.

9-796

SECTION 210.10—Time Schedule and Availability of Credits for Cash Items and Returned Checks

(a) Each Reserve Bank shall publish a time schedule indicating when the amount of any cash item or returned check received by it is counted toward the balance maintained to satisfy a reserve balance requirement for purposes of part 204 of this chapter (Regulation D) and becomes available for use by the sender or paying or returning bank. The Reserve Bank that holds the settlement account shall give either immediate or deferred credit to a sender, a paying bank, or a returning bank (other than a foreign correspondent) in accordance with the time schedule of the receiving Reserve Bank. A Reserve Bank ordinarily gives credit to a foreign correspondent only when the Reserve Bank receives payment of the item in actually and finally collected funds, but, in its discretion, a Reserve Bank

may give immediate or deferred credit in accordance with its time schedule.

(b) Notwithstanding its time schedule, a Reserve Bank may refuse at any time to permit the use of credit given by it for any cash item or returned check, and may defer availability after credit is received by the Reserve Bank for a period of time that is reasonable under the circumstances.

9-797

SECTION 210.11—Availability of Proceeds of Noncash Items; Time Schedule

(a) *Availability of credit.* A Reserve Bank shall give credit to the sender for the proceeds of a noncash item when it receives payment in actually and finally collected funds (or advice from another Reserve Bank of such payment to it). The amount of the item is counted toward the balance maintained to satisfy a reserve balance requirement for purposes of part 204 of this chapter (Regulation D) and becomes available for use by the sender when the Reserve Bank receives the payment or advice, except as provided in paragraph (b) of this section.

9-798

(b) *Time schedule.* A Reserve Bank may give credit for the proceeds of a noncash item subject to payment in actually and finally collected funds in accordance with a published time schedule. The time schedule shall indicate when the proceeds of the noncash item will be counted toward the balance maintained to satisfy a reserve balance requirement for purposes of part 204 of this chapter (Regulation D) and become available for use by the sender. A Reserve Bank may, however, refuse at any time to permit the use of credit given by it for a noncash item for which the Reserve Bank has not yet received payment in actually and finally collected funds.

9-799

SECTION 210.12—Return of Cash Items and Handling of Returned Checks

(a) *Return of items.*

(1) *Return of cash items handled by Reserve Banks.* A paying bank that receives a

cash item from a Reserve Bank, other than for immediate payment over the counter, and that settles for the item as provided in section 210.9(b), may, before it has finally paid the item, return the item to any Reserve Bank (unless its Administrative Reserve Bank directs it to return the item to a specific Reserve Bank) in accordance with subpart C of part 229 of this chapter (Regulation CC), the Uniform Commercial Code, and the Reserve Banks' operating circulars. A paying bank that receives a cash item from a Reserve Bank also may return the item prior to settlement, in accordance with section 210.9(b) and the Reserve Banks' operating circulars. The rules or practices of a clearinghouse through which the item was presented, or a special collection agreement under which the item was presented, may not extend these return times, but may provide for a shorter return time.

9-800

(2) *Return of checks not handled by Reserve Banks.* A paying bank that receives a check, other than from a Reserve Bank, and that determines not to pay the check, may send the returned check to any Reserve Bank (unless its Administrative Reserve Bank directs it to send the returned check to a specific Reserve Bank) in accordance with subpart C of part 229 of this chapter (Regulation CC), the Uniform Commercial Code, and the Reserve Banks' operating circulars. A returning bank may send a returned check to any Reserve Bank (unless its Administrative Reserve Bank directs it to send the returned check to a specific Reserve Bank) in accordance with subpart C of part 229 of this chapter (Regulation CC), the Uniform Commercial Code, and the Reserve Banks' operating circulars.

9-800.1

(b) *Handling of returned checks.*

(1) The following parties, in the following order, are deemed to have handled a returned check sent to a Reserve Bank under paragraph (a) of this section:

(i) the paying or returning bank;

- (ii) the paying bank's or returning bank's administrative Reserve Bank;
 - (iii) the Reserve Bank that receives the returned check from the paying or returning bank (if different from the paying bank's or returning bank's administrative Reserve Bank); and
 - (iv) another Reserve Bank, if any, that receives the returned check from a Reserve Bank.
- (2) A Reserve Bank that is not described in paragraph (b)(1) of this section is not a person that handles a returned check and is not a returning bank with respect to a returned check.
- (3) The identity and order of the parties under paragraph (b)(1) of this section determine the relationships and the rights and liabilities of the parties under this subpart, part 229 of this chapter (Regulation CC), and the Uniform Commercial Code.

9-801

(c) *Paying bank's and returning bank's agreement.* The warranties, indemnities, authorizations, and agreements made pursuant to this paragraph (c) may not be disclaimed and are made whether or not the returned check bears an indorsement of the paying bank or returning bank. By sending a returned check to a Reserve Bank, the paying bank or returning bank does all of the following.

- (1) *Authorization to handle returned check.* The paying bank or returning bank authorizes the paying bank's or returning bank's Administrative Reserve Bank, and any other Reserve Bank or returning bank to which the returned check is sent, to handle the returned check (and authorizes any Reserve Bank that handles settlement for the returned check to make accounting entries) subject to this subpart and to the Reserve Banks' operating circulars.
- (2) *Warranties for all returned checks.* The paying bank or returning bank warrants to each Reserve Bank handling a returned check that the returned check bears all indorsements applied by parties that previously handled the returned check for forward collection or return.
- (3) *Warranties and indemnities as set forth in Regulation CC.* As applicable and unless

otherwise provided, a paying bank or returning bank makes to each Reserve Bank that handles the returned check all the warranties and indemnities set forth in and subject to the terms of subparts C and D of part 229 of this chapter (Regulation CC).

(4) *Paying bank or returning bank's liability to Reserve Bank.*

- (i) Except as provided in paragraph (c)(4)(ii) and (iii) of this section, a paying bank or returning bank agrees to indemnify each Reserve Bank for any loss or expense (including attorneys' fees and expenses of litigation) resulting from—

- (A) The paying or returning bank's lack of authority to give the authorization in paragraph (c)(1) of this section;
- (B) Any action taken by a Reserve Bank within the scope of its authority in handling the returned check; or
- (C) Any warranty or indemnity made by the Reserve Bank under paragraph (e) of this section or part 229 of this chapter.

(ii) A paying bank's or returning bank's liability for warranties and indemnities that a Reserve Bank makes for a returned check that is a substitute check, a paper or electronic representation thereof, or an electronic returned check is subject to the following conditions and limitations—

- (A) A paying bank or returning bank that sent an original returned check shall not be liable for any amount that a Reserve Bank pays under subpart D of part 229 of this chapter, or under section 229.34 of this chapter with respect to an electronic returned check, absent the paying bank's or returning bank's agreement to the contrary; and
- (B) Nothing in this subpart alters the liability under subpart D of part 229 of this chapter of a paying bank or returning bank that sent a substitute check or a paper or electronic representation of a substitute check or under section 229.34 of this chapter of a paying bank or returning bank that sent an electronic returned check; and

(iii) A paying bank or returning bank shall not be liable for any amount that the Reserve Bank pays under this subpart

or part 229 of this chapter that is attributable to the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

(d) *Paying bank or returning bank's liability under other law.* Nothing in paragraph (c) of this section limits any warranty or indemnity by a returning bank or paying bank (or a person that handled an item prior to that bank) arising under state law or regulation (such as the UCC), other federal law or regulation (such as part 229 of this chapter), or an agreement with a Reserve Bank.

9-801.1

(e) *Warranties by and liability of Reserve Bank.*

(1) *Warranties and indemnities.* The following provisions apply when a Reserve Bank handles a returned check under this subpart.

(i) *Warranties for all items.* The Reserve Bank warrants to the bank to which it sends the returned check that the returned check bears all indorsements applied by parties that previously handled the returned check for forward collection or return.

(ii) *Warranties and indemnities as set forth in Regulation CC.* As applicable and unless otherwise provided, the Reserve Bank makes all the warranties and indemnities set forth in and subject to the terms of subparts C and D of part 229 of this chapter (Regulation CC).

(2) *Indemnity for substitute check created from electronic returned check.*

(i) Except as provided in paragraph (e)(2)(ii) of this section, the Reserve Bank shall indemnify the bank to which it transfers or presents an electronic returned check (the recipient bank) for the amount of any losses that the recipient bank incurs under subpart D of part 229 of this chapter (Regulation CC) for an indemnity that the recipient bank was required to make under subpart D of part 229 of this chapter in connection with a substitute check later created from the electronic returned check.

(ii) The Reserve Bank shall not be liable under paragraph (e)(2)(i) of this section

for any amount that the recipient bank pays under subpart D of part 229 of this chapter that is attributable to the lack of good faith or failure to exercise ordinary care of the recipient bank or a person that handled the item, in any form, after the recipient bank.

(3) *Liability of Reserve Bank.* A Reserve Bank shall not have or assume any other liability to any person except—

(i) For the Reserve Bank's own lack of good faith or failure to exercise ordinary care;

(ii) As provided in this paragraph (e); and

(iii) As provided in subparts C and D of part 229 of this chapter (Regulation CC).

9-802

(f) *Recovery by Reserve Bank.*

(1) A Reserve Bank that has handled a returned check may recover as provided in paragraph (f)(2) of this section if an action or proceeding is brought against (or if defense is tendered to) the Reserve Bank based on—

(i) The alleged failure of the paying bank or returning bank to have the authority to give the authorization in paragraph (c)(1) of this section;

(ii) Any action by the Reserve Bank within the scope of its authority in handling the returned check; or

(iii) Any warranty or indemnity made by the Reserve Bank under paragraph (e) of this section or part 229 of this chapter; and

(2) Upon entry of a final judgment or decree in an action or proceeding described in paragraph (f)(1) of this section, a Reserve Bank may recover from the paying bank or returning bank the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay because of the judgment or decree or the tender of defense, together with interest thereon.

9-803

(g) *Methods of recovery.*

(1) The Reserve Bank may recover the amount stated in paragraph (f) of this sec-

tion by charging any account on its books that is maintained or used by the paying bank or returning bank (or by charging another returning Reserve Bank), if—

(i) The Reserve Bank made reasonable written demand on the paying bank or returning bank to assume defense of the action or proceeding; and

(ii) The paying bank or returning bank has not made any other arrangement for payment that is acceptable to the Reserve Bank.

(2) The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. A Reserve Bank that has been charged under this paragraph (g) may recover from the paying or returning bank in the manner and under the circumstances set forth in this paragraph (g).

(3) A Reserve Bank's failure to avail itself of the remedy provided in this paragraph (g) does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (c)(4) of this section.

9-804

(h) *Reserve Bank's responsibility.* A Reserve Bank shall handle a returned check, or a notice of nonpayment, in accordance with subpart C of part 229 and its operating circular.

(i) *Settlement.* A subsequent returning bank or depositary bank shall settle with its administrative Reserve Bank for returned checks in the same manner and by the same time as for cash items presented for payment under this subpart. Settlement with its administrative Reserve Bank is deemed to be settlement with the Reserve Bank from which the returning bank or depositary bank received the item.

9-804.1

(j) *Security interest.* When a paying or returning bank sends a returned check to a Reserve Bank, the paying bank, returning bank, and any prior returning bank grant to the paying bank's or returning bank's administrative Reserve Bank a security interest in all of their respective assets in the possession of, or held for the account of, any Reserve Bank, to se-

cure their respective obligations due or to become due to the administrative Reserve Bank under this subpart or subpart C of part 229 of this chapter (Regulation CC). The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the paying bank, returning bank, or prior returning bank, or if the paying bank, returning bank, or prior returning bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

9-805

SECTION 210.13—Unpaid Items

(a) *Right of recovery.* If a Reserve Bank does not receive payment in actually and finally collected funds for an item, the Reserve Bank shall recover by charge-back or otherwise the amount of the item from the sender, prior collecting bank, paying bank, or returning bank from or through which it was received, whether or not the item itself can be sent back. In the event of recovery from such a person, no person, including the owner or holder of the item, shall, for the purpose of obtaining payment of the amount of the item, have any interest in any reserve balance or other funds or property in the Reserve Bank's possession of the bank that failed to make payment in actually and finally collected funds.

(b) *Suspension or closing of bank.* A Reserve Bank shall not pay or act on a draft, authorization to charge (including a charge authorized by section 210.9(a)(5)), or other order on a reserve balance or other funds in its possession for the purpose of settling for items under section 210.9 or section 210.12 after it receives notice of suspension or closing of the bank making the settlement for that bank's own or another's account.

9-806**SECTION 210.14—Extension of Time Limits**

If a bank (including a Reserve Bank) or nonbank payor is delayed in acting on an item beyond applicable time limits because of interruption of communication or computer facilities, suspension of payments by a bank or nonbank payor, war, emergency conditions, failure of equipment, or other circumstances beyond its control, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

9-807**SECTION 210.15—Direct Presentment of Certain Warrants**

If a Reserve Bank elects to present direct to the payor a bill, note, or warrant that is issued and payable by a state or a political subdivision and that is a cash item not payable or collectible through a bank—

- (a) Sections 210.9, 210.12, and 210.13 and the operating circulars of the Reserve Banks apply to the payor as if it were a paying bank;
- (b) Section 210.14 applies to the payor as if it were a bank; and
- (c) Under section 210.9 each day on which the payor is open for the regular conduct of its affairs or the accommodation of the public is considered a banking day.

9-810**SUBPART B—FUNDS TRANSFERS THROUGH THE FEDWIRE FUNDS SERVICE****SECTION 210.25—Authority, Purpose, and Scope**

(a) *Authority and purpose.* This subpart provides rules to govern funds transfers through the Fedwire Funds Service, and has been issued pursuant to the Federal Reserve Act—section 13 (12 U.S.C. 342), paragraph (f) of section 19 (12 U.S.C. 464), paragraph 14 of section 16 (12 U.S.C. 248(o)), and paragraphs

(i) and (j) of section 11 (12 U.S.C. 248(i) and (j))—and other laws and has the force and effect of federal law. This subpart is not a funds-transfer system rule as defined in section 4A-501(b) of article 4A.*

9-811**(b) Scope.**

(1) This subpart incorporates the provisions of article 4A set forth in appendix A of this part. In the event of an inconsistency between the provisions of the sections of this subpart and appendix A of this part, the provisions of the sections of this subpart shall prevail. In the event of an inconsistency between the provisions of this subpart and section 919 of the Electronic Fund Transfer Act, section 919 of the Electronic Fund Transfer Act shall prevail.

(2) Except as otherwise provided in paragraphs (b)(3) and (4) of this section, this subpart, including article 4A as set forth in appendix A of this part and operating circulars of the Federal Reserve Banks issued in accordance with paragraph (c) of this section, governs the rights and obligations of the following parties with respect to the Fedwire Funds Service:

- (i) Federal Reserve Banks that send or receive payment orders;
- (ii) senders that send payment orders directly to a Federal Reserve Bank;
- (iii) receiving banks that receive payment orders directly from a Federal Reserve Bank;
- (iv) beneficiaries that receive payment for payment orders by means of credit to an account maintained or used at a Federal Reserve Bank; and
- (v) other parties to a funds transfer any part of which is carried out through the Fedwire Funds Service to the same extent as if this subpart were considered a funds-transfer system rule under article 4A.

(3) This subpart governs a funds transfer that is sent through the Fedwire Funds Service, as provided in paragraph (b)(2) of this section, even though a portion of the funds

* Section 4A-501(b) of article 4A of the Uniform Commercial Code.

transfer is governed by the Electronic Fund Transfer Act, but the portion of such funds transfer that is governed by the Electronic Fund Transfer Act (other than section 919 governing remittance transfers) is not governed by this subpart.

(4) In the event that any portion of this subpart establishes rights or obligations with respect to the availability of funds that are also governed by the Expedited Funds Availability Act or the Board's Regulation CC, Availability of Funds and Collection of Checks, those provisions of the Expedited Funds Availability Act or Regulation CC shall apply and the portion of this subpart, including article 4A as incorporated herein, shall not apply.

9-812

(c) *Operating circulars.* Federal Reserve Bank shall issue an operating circular consistent with this subpart that governs the details of its funds-transfer operations in connection with the Fedwire Funds Service and other matters it deems appropriate. Among other things, the operating circular may set cut-off times and funds-transfer business days; address security procedures offered by the Federal Reserve Banks to verify the authenticity of a payment order; specify format and media requirements for payment orders; specify the time and method of receipt, execution, and acceptance of a payment order and settlement of a Federal Reserve Bank's payment obligation for purposes of article 4A; specify service terms governing ancillary features of the Fedwire Funds Service; provide for the acceptance of documents in electronic form to the extent any provision in article 4A requires an agreement or other document to be in writing; identify messages that are not payment orders; and impose charges for funds-transfer services.

9-813

(d) *Government senders, receiving banks, and beneficiaries.* Except as otherwise expressly provided by the statutes of the United States, the parties specified in paragraph (b)(2)(ii)-(v) of this section include—

(1) a department, agency, instrumentality, independent establishment, or office of the

United States, or a wholly owned or controlled government corporation;

(2) an international organization;

(3) a foreign central bank; and

(4) a department, agency, instrumentality, independent establishment, or office of a foreign government, or a wholly owned or controlled corporation of a foreign government.

(e) *Financial messaging standards.* Financial messaging standards (e.g., ISO 20022), including the financial messaging components, elements, technical documentation, tags, and terminology used to implement those standards, do not confer or connote legal status or responsibilities. This subpart, including article 4A as set forth in appendix A of this part, and the operating circulars of the Reserve Banks issued in accordance with paragraph (c) of this section govern the rights and obligations of parties to funds transfers sent through the Fedwire Funds Service as provided in paragraph (b) of this section. To the extent there is any inconsistency between a financial messaging standard adopted by the Fedwire Funds Service and this subpart, this subpart shall prevail.

9-814

SECTION 210.26—Definitions

As used in this subpart, the following definitions apply:

Article 4A means article 4A of the Uniform Commercial Code as set forth in appendix A of this part, which is incorporated into this subpart in accordance with section 210.25(b).

Automated clearing house transfer means any transfer designated as an automated clearing house transfer in an operating circular issued by the Federal Reserve Banks.

Beneficiary has the same meaning as in article 4A except that the term is limited to a beneficiary in a funds transfer any portion of which is sent through the Fedwire Funds Service.

9-815

Beneficiary's bank has the same meaning as in article 4A, except that:

(1) The term is limited to a beneficiary's bank in a funds transfer any portion of which is sent through the Fedwire Funds Service;

(2) A Federal Reserve Bank need not be identified in the payment order in order to be the beneficiary's bank; and

(3) The term includes a Federal Reserve Bank when that Federal Reserve Bank is the beneficiary of a payment order.

Fedwire Funds Service means the funds-transfer system owned and operated by the Federal Reserve Banks that is used primarily for the transmission and settlement of payment orders governed by this subpart. The Fedwire Funds Service does not include the FedNow Service or the system for making automated clearing house transfers.

Interdistrict transfer means a funds transfer involving entries to accounts maintained at two Federal Reserve Banks.

9-816

Intradistrict transfer means a funds transfer involving entries to accounts maintained at one Federal Reserve Bank.

Off-line bank means a bank that sends payment orders to and receives payment orders from a Federal Reserve Bank by telephone orally or by other means other than electronic data transmission.

Payment order has the same meaning as in article 4A except that the term includes only instructions sent or received through the Fedwire Funds Service and does not include automated clearing house transfers or any communication designated in an operating circular issued by a Federal Reserve Bank under this subpart as not being a payment order.

Receiving bank has the same meaning as in article 4A except that the term is limited to a receiving bank in a funds transfer any portion of which is sent through the Fedwire Funds Service.

Sender has the same meaning as in article 4A except that the term is limited to a sender in a funds transfer any portion of which is sent through the Fedwire Funds Service.

Sender's account, *receiving bank's account*, and *beneficiary's account* mean the reserve, clearing, or other funds deposit account at a Federal Reserve Bank maintained or used by the sender, receiving bank, or beneficiary, respectively.

Sender's Federal Reserve Bank and *receiving*

bank's Federal Reserve Bank mean the Federal Reserve Bank at which the sender or receiving bank, respectively, maintains or uses an account.

9-817

SECTION 210.27—Reliance on Identifying Number

(a) *Reliance by a Federal Reserve Bank on number to identify an intermediary bank or beneficiary's bank.* A Federal Reserve Bank may rely on the number in a payment order that identifies the intermediary bank or beneficiary's bank, even if it identifies a bank different from the bank identified by name in the payment order, if the Federal Reserve Bank does not know of such an inconsistency in identification. A Federal Reserve Bank has no duty to detect any such inconsistency in identification.

9-818

(b) *Reliance by a Federal Reserve Bank on number to identify beneficiary.* A Federal Reserve Bank, acting as a beneficiary's bank, may rely on the number in a payment order that identifies the beneficiary, even if it identifies a person different from the person identified by name in the payment order, if the Federal Reserve Bank does not know of such an inconsistency in identification. A Federal Reserve Bank has no duty to detect any such inconsistency in identification.

9-819

SECTION 210.28—Agreement of Sender

(a) *Payment of sender's obligation to a Federal Reserve Bank.* A sender (other than a Federal Reserve Bank), by maintaining or using an account with a Federal Reserve Bank, authorizes the sender's Federal Reserve Bank to obtain payment for the sender's payment orders by debiting the amount of the payment order from the sender's account.

9-820

(b) *Overdrafts.*

(1) A sender does not have the right to an overdraft in the sender's account. In the

event an overdraft is created, the overdraft shall be due and payable immediately, without the need for a demand by the Federal Reserve Bank, at the earliest of the following times:

- (i) at the end of the Fedwire Funds Service funds-transfer business day;
 - (ii) at the time the Federal Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender; or
 - (iii) at the time the sender suspends payments or is closed.
- (2) The sender shall have in its account, at the time the overdraft is due and payable, a balance of actually and finally collected funds sufficient to cover the aggregate amount of all its obligations to the Federal Reserve Bank, whether the obligations result from the execution of a payment order or otherwise.
- (3) To secure any overdraft, as well as any other obligation due or to become due to its Federal Reserve Bank, each sender, by sending a payment order to a Federal Reserve Bank that is accepted by the Federal Reserve Bank, grants to the Federal Reserve Bank a security interest in all of the sender's assets in the possession or control of, or held for the account of, the Federal Reserve Bank. The security interest attaches when an overdraft, or any other obligation to the Federal Reserve Bank, becomes due and payable.
- (4) A Federal Reserve Bank may take any action authorized by law to recover the amount of an overdraft that is due and payable, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.
- (5) If a sender, other than a government sender described in section 210.25(d) of this part, incurs an overdraft in its account as a result of a debit to the account by a Federal Reserve Bank under paragraph (a) of this section, the account will be subject to any applicable overdraft charges, regardless of whether the overdraft has become due and payable. A Federal Reserve Bank may debit a sender's account under para-

graph (a) of this section immediately on acceptance of the payment order.

9-821

(c) *Review of payment orders.* A sender, by sending a payment order to a Federal Reserve Bank, agrees that for the purposes of sections 4A-204(a) and 4A-304 of article 4A, a reasonable time to notify a Federal Reserve Bank of the relevant facts concerning an unauthorized or erroneously executed payment order is within 30 calendar days after the sender receives notice that the payment order was accepted or executed, or that the sender's account was debited with respect to the payment order.

9-822

SECTION 210.29—Agreement of Receiving Bank

(a) *Payment.* A receiving bank (other than a Federal Reserve Bank) that receives a payment order from its Federal Reserve Bank authorizes that Federal Reserve Bank to pay for the payment order by crediting the amount of the payment order to the receiving bank's account.

(b) *Off-line banks.* An off-line bank that does not expressly notify its Federal Reserve Bank in writing that it maintains an account for another bank warrants to that Federal Reserve Bank that the off-line bank does not act as an intermediary bank or a beneficiary's bank with respect to payment orders received through the Fedwire Funds Service for a beneficiary that is a bank.

9-823

SECTION 210.30—Payment Orders

(a) *Rejection.* A sender shall not send a payment order to a Federal Reserve Bank unless authorized to do so by the Federal Reserve Bank. A Federal Reserve Bank may reject, or impose conditions that must be satisfied before it will accept, a payment order for any reason.

(b) *Selection of an intermediary bank.* For an interdistrict transfer through the Fedwire

Funds Service, a Federal Reserve Bank is authorized and directed to execute a payment order through another Federal Reserve Bank. A sender shall not send a payment order to a Federal Reserve Bank that requires the Federal Reserve Bank to send a payment order to an intermediary bank (other than a Federal Reserve Bank) unless that intermediary bank is designated in the sender's payment order. A sender shall not send to a Federal Reserve Bank a payment order through the Fedwire Funds Service that instructs use by a Federal Reserve Bank of a funds-transfer system or means of transmission other than the Fedwire Funds Service unless the Federal Reserve Bank agrees with the sender in writing to follow such instructions.

9-824

(c) *Execution date and payment date.* A sender shall not send a payment order through the Fedwire Funds Service that instructs a Federal Reserve Bank to execute the payment order or to pay the beneficiary on a funds-transfer business day that is later than the Fedwire Funds Service funds-transfer business day on which the order is received by the Federal Reserve Bank, unless the Federal Reserve Bank agrees with the sender in writing to follow such instructions.

9-825

SECTION 210.31—Payment by a Federal Reserve Bank to a Receiving Bank or Beneficiary

(a) *Payment to a receiving bank.* Payment of a Federal Reserve Bank's obligation to pay a receiving bank (other than a Federal Reserve Bank) occurs at the earlier of the time when the amount of the payment order is credited to the receiving bank's account or when the payment order is sent to the receiving bank.

(b) *Payment to a beneficiary.* Payment by a Federal Reserve Bank to a beneficiary of a payment order, where the Federal Reserve Bank is the beneficiary's bank, occurs at the earlier of the time when the amount of the payment order is credited to the beneficiary's account or when notice of the credit is sent to the beneficiary.

9-826

SECTION 210.32—Federal Reserve Bank Liability; Payment of Compensation

(a) *Damages.* In connection with its handling of a payment order under this subpart, a Federal Reserve Bank shall not be liable to a sender, receiving bank, beneficiary, or other Federal Reserve Bank, governed by this subpart, for any damages other than those payable under article 4A. A Federal Reserve Bank shall not agree to be liable to a sender, receiving bank, beneficiary, or other Federal Reserve Bank for consequential damages under section 4A-305(d) of article 4A.

9-827

(b) *Payment of compensation.*

(1) A Federal Reserve Bank shall satisfy its obligation, or that of another Federal Reserve Bank, to pay compensation in the form of interest under article 4A by paying such compensation in the form of interest to a sender, receiving bank, beneficiary, or another party to the funds transfer that is entitled to such payment in an amount that is calculated in accordance with section 4A-506 of article 4A.

(2) If the sender or receiving bank that is the recipient of the payment of compensation is not the party entitled to compensation under article 4A, the sender or receiving bank shall pass through the benefit of the compensation by making an interest payment, as of the day the compensation was paid by the Federal Reserve Bank, to the party entitled to compensation. The interest payment that is made to the party entitled to compensation shall not be less than the value of the compensation that was paid by the Federal Reserve Bank to the sender or receiving bank. The party entitled to compensation may agree to accept compensation in a form other than a direct interest payment, provided that such an alternative form of compensation is not less than the value of the interest payment that otherwise would be made.

9-828

(c) *Nonwaiver of right of recovery.* Nothing in

this subpart or any operating circular issued hereunder shall constitute, or be construed as constituting, a waiver by a Federal Reserve Bank of a cause of action for recovery under any applicable law of mistake and restitution.

APPENDIX A TO SUBPART B—Commentary

See 9-850.

9-829

SUBPART C—FUNDS TRANSFERS THROUGH THE FEDNOW SERVICE

SECTION 210.40—Authority, Purpose, and Scope

(a) *Authority and purpose.* This subpart provides rules to govern funds transfers through the FedNow Service, and has been issued pursuant to the Federal Reserve Act—section 13 (12 U.S.C. 342), paragraph (f) of section 19 (12 U.S.C. 464), paragraph 14 of section 16 (12 U.S.C. 248(o)), and paragraphs (i) and (j) of section 11 (12 U.S.C. 248(i) and (j))—and other laws and has the force and effect of federal law. This subpart is not a funds-transfer system rule as defined in section 4A-501(b) of article 4A.

(b) *Scope.*

(1) This subpart incorporates the provisions of article 4A set forth in appendix A of this part. In the event of an inconsistency between the provisions of the sections of this subpart and appendix A of this part, the provisions of the sections of this subpart shall prevail.

(2) Except as otherwise provided in paragraphs (b)(3) and (4) of this section, this subpart, including article 4A as incorporated herein and operating circulars of the Federal Reserve Banks issued in accordance with paragraph (c) of this section, governs the rights and obligations of the following parties with respect to the FedNow Service:

- (i) Federal Reserve Banks that send or receive payment orders;
- (ii) senders that send payment orders directly to a Federal Reserve Bank;

(iii) receiving banks that receive payment orders directly from a Federal Reserve Bank;

(iv) beneficiaries that receive payment for payment orders by means of credit to the beneficiary's settlement account; and

(v) other parties to a funds transfer any part of which is carried out through the FedNow Service to the same extent as if this subpart were considered a funds-transfer system rule under article 4A.

(3) A Federal Reserve Bank that is not the sender's Federal Reserve Bank, receiving bank's Federal Reserve Bank, or beneficiary's Federal Reserve Bank is not a party to the funds transfer for purposes of this subpart and article 4A.

(4) This subpart governs a funds transfer that is sent through the FedNow Service, even if a portion of the funds transfer is governed by the Electronic Fund Transfer Act, but in the event of an inconsistency between the provisions this subpart and the Electronic Fund Transfer Act, the Electronic Fund Transfer Act shall prevail to the extent of the inconsistency.

(c) *Operating circulars.* Each Federal Reserve Bank shall issue an operating circular consistent with this subpart that governs the details of its funds-transfer operations in connection with the FedNow Service and other matters it deems appropriate. Among other things, the operating circular may: set cut-off times and funds-transfer business days; address security procedures offered by the Federal Reserve Banks to verify the authenticity of a payment order; specify format and media requirements for payment orders; specify the time and method of receipt, execution, and acceptance of a payment order and settlement of a Federal Reserve Bank's payment obligation for purposes of article 4A; prescribe time limits for the processing of payment orders; specify service terms governing ancillary features of the FedNow Service; provide for the acceptance of documents in electronic form to the extent any provision in article 4A requires an agreement or other document to be in writing; identify messages that are not payment orders; and impose charges for funds-transfer services.

(d) *Government senders, receiving banks, and beneficiaries.* Except as otherwise expressly provided by the statutes of the United States, the parties specified in paragraphs (b)(2)(ii) through (v) of this section include a department, agency, instrumentality, independent establishment, or office of the United States, or a wholly-owned or controlled government corporation.

(e) *Financial messaging standards.* Financial messaging standards (e.g., ISO 20022), including the financial messaging components, elements, technical documentation, tags, and terminology used to implement those standards, do not confer or connote legal status or responsibilities. This subpart, including article 4A as incorporated herein, and the operating circulars of the Federal Reserve Banks issued in accordance with paragraph (c) of this section govern the rights and obligations of parties to funds transfers sent through the FedNow Service as provided in paragraph (b) of this section. To the extent there is any inconsistency between a financial messaging standard adopted by the Federal Reserve Banks for the FedNow Service and this subpart, this subpart shall prevail.

Bank when that Federal Reserve Bank is the beneficiary of a payment order.

Federal Reserve Bank with respect to an entity means the Federal Reserve Bank in whose District the entity is located, as determined under the procedure described in part 204 of this chapter (Regulation D), even if the entity is not otherwise subject to that section, or, if the entity maintains an account on the books of a different Federal Reserve Bank, the Federal Reserve Bank at which the entity maintains an account.

FedNow Service means the funds-transfer system owned and operated by the Federal Reserve Banks to support instant payments that is used primarily for the transmission and settlement of payment orders governed by this subpart. The FedNow Service does not include the Fedwire Funds Service.

Interdistrict transfer means a funds transfer involving entries to settlement accounts maintained at two Federal Reserve Banks.

Payment order has the same meaning as in article 4A, except that the term includes only instructions sent or received through the FedNow Service, and does not include automated clearing house transfers or any communication designated as not being a payment order in an operating circular issued by a Federal Reserve Bank under this subpart.

Receiving bank has the same meaning as in article 4A, except that the term is limited to a receiving bank in a funds transfer that is sent through the FedNow Service.

Sender has the same meaning as in article 4A, except that the term is limited to a sender in a funds transfer that is sent through the FedNow Service.

Sender's settlement account, receiving bank's settlement account, and beneficiary's settlement account mean an account on the books of a Federal Reserve Bank maintained by the sender, receiving bank, or beneficiary, respectively. The term also includes any account on a Federal Reserve Bank's books used with respect to the FedNow Service by the sender, receiving bank, or beneficiary, respectively, by agreement with its Federal Reserve Bank, any other Federal Reserve Bank on whose books the settlement account is maintained, and the account-holder.

9-829.1

SECTION 210.41—Definitions

As used in this subpart, the following definitions apply:

Article 4A means article 4A of the Uniform Commercial Code as set forth in appendix A of this part, which is incorporated into this subpart in accordance with section 210.40(b).

Beneficiary has the same meaning as in article 4A, except that the term is limited to a beneficiary in a funds transfer that is sent through the FedNow Service.

Beneficiary's bank has the same meaning as in article 4A, except that:

- (1) the term is limited to a beneficiary's bank in a funds transfer that is sent through the FedNow Service;
- (2) a Federal Reserve Bank need not be identified in the payment order in order to be the beneficiary's bank; and
- (3) the term includes a Federal Reserve

9-829.2**SECTION 210.42—Reliance on Identifying Number**

(a) *Reliance by a Federal Reserve Bank on number to identify a beneficiary's bank.* A Federal Reserve Bank that receives a payment order from a sender containing a number that identifies the beneficiary's bank may rely on the number, even if it identifies a bank different from the bank identified by name in the payment order, if the Federal Reserve Bank does not know of such an inconsistency in identification. A Federal Reserve Bank has no duty to detect any such inconsistency in identification.

(b) *Reliance by a Federal Reserve Bank on number to identify beneficiary.* A Federal Reserve Bank, acting as a beneficiary's bank, that receives a payment order from a sender containing a number that identifies the beneficiary may rely on the number, even if it identifies a person different from the person identified by name in the payment order, if the Federal Reserve Bank does not know of such an inconsistency in identification. A Federal Reserve Bank has no duty to detect any such inconsistency in identification.

9-829.3**SECTION 210.43—Agreement of Sender**

(a) *Payment of sender's obligation to a Federal Reserve Bank.* A sender (other than a Federal Reserve Bank), by maintaining or using a settlement account with a Federal Reserve Bank, authorizes the sender's Federal Reserve Bank to obtain payment for the sender's payment orders by debiting, or causing any other Federal Reserve Bank on whose books the settlement account is maintained to debit, the amount of the payment order from the settlement account. The sender remains responsible for payment if the Federal Reserve Bank on whose books the settlement account is maintained does not, for any reason, obtain payment by debiting that account.

(b) *Overdrafts.*

(1) A sender does not have the right to an overdraft in its settlement account. In the event an overdraft is created, the overdraft shall be due and payable immediately, with-

out the need for a demand by the Federal Reserve Bank, at the earliest of the following times:

- (i) at the end of the FedNow funds-transfer business day;
- (ii) at the time the Federal Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender; or
- (iii) at the time the sender suspends payments or is closed.

(2) The sender shall have in its settlement account, at the time the overdraft is due and payable, a balance of actually and finally collected funds sufficient to cover the aggregate amount of all its obligations to the Federal Reserve Bank, whether the obligations result from the acceptance of a payment order or otherwise.

(3) To secure any overdraft, as well as any other obligation due or to become due to its Federal Reserve Bank, a sender, by sending a payment order to a Federal Reserve Bank that is accepted by the Federal Reserve Bank, grants to the Federal Reserve Bank a security interest in all of its assets in the possession or control of, or held for the account of, the Federal Reserve Bank. The security interest attaches when an overdraft, or any other obligation to the Federal Reserve Bank, becomes due and payable.

(4) A Federal Reserve Bank may take any action authorized by law to recover the amount of an overdraft that is due and payable, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

(5) If a sender, other than a government sender described in section 210.40(d), incurs an overdraft in its settlement account as a result of a debit to the account by a Federal Reserve Bank under paragraph (a) of this section, the settlement account will be subject to any applicable overdraft charges, regardless of whether the overdraft has become due and payable. A Federal Reserve Bank may debit the settlement account under paragraph (a) of this section immediately on acceptance of the payment order.

(c) *Review of payment orders.* A sender, by sending a payment order to a Federal Reserve Bank, agrees that for the purposes of sections 4A-204(a) and 4A-304 of article 4A, a reasonable time to notify a Federal Reserve Bank of the relevant facts concerning an unauthorized or erroneously executed payment order is within 60 calendar days after the sender receives notice that the payment order was accepted or that the sender's settlement account was debited with respect to the payment order.

the beneficiary is not entitled or permitted to receive payment, the beneficiary's bank may notify its Federal Reserve Bank that it requires additional time to determine whether to accept the payment order. In the event the beneficiary's bank gives such notice to its Federal Reserve Bank, for purposes of this subpart and article 4A the beneficiary's bank does not accept the payment order upon its receipt of payment in the amount of the payment order by a Federal Reserve Bank.

9-829.4

SECTION 210.44—Agreement of Receiving Bank

(a) *Payment.* A receiving bank (other than a Federal Reserve Bank) that receives a payment order from its Federal Reserve Bank authorizes that Federal Reserve Bank to pay for the payment order by crediting, or causing any other Federal Reserve Bank on whose books the settlement account is maintained to credit, the amount of the payment order to the settlement account.

(b) *Funds availability.*

(1) A beneficiary's bank (other than a Federal Reserve Bank) that accepts a payment order over the FedNow Service is obliged to pay the amount of the order to the beneficiary of the order immediately after its acceptance of the payment order, by crediting an account of the beneficiary in accordance with section 4A-405(a) of article 4A. The rights and obligations with respect to the availability of funds are also governed by the Expedited Funds Availability Act and the Board's Regulation CC, Availability of Funds and Collection of Checks.

(2) Nothing in paragraph (b)(1) of this section or any operating circular issued hereunder shall create any rights that the beneficiary or any party other than a Federal Reserve Bank may assert against the beneficiary's bank, or affect any liability of the beneficiary's bank to the beneficiary or any party other than a Federal Reserve Bank under article 4A or other law.

(3) In circumstances where the beneficiary's bank (other than a Federal Reserve Bank) has reasonable cause to believe that

9-829.5

SECTION 210.45—Payment Orders

(a) *Rejection.* A sender shall not send a payment order to a Federal Reserve Bank unless authorized to do so by the Federal Reserve Bank. A Federal Reserve Bank may reject, or impose conditions that must be satisfied before it will accept, a payment order for any reason.

(b) *Selection of an intermediary bank.* For an interdistrict transfer through the FedNow Service, a Federal Reserve Bank is authorized and directed to execute a payment order through another Federal Reserve Bank. A sender shall not send a payment order to a Federal Reserve Bank that requires the Federal Reserve Bank to send a payment order to an intermediary bank (other than a Federal Reserve Bank). A sender shall not send to a Federal Reserve Bank a payment order through the FedNow Service that instructs use by a Federal Reserve Bank of a funds-transfer system or means of transmission other than the FedNow Service, unless the Federal Reserve Bank agrees with the sender in writing to follow such instructions.

(c) *Execution date and payment date.* A sender shall not issue a payment order through the FedNow Service that instructs a Federal Reserve Bank to execute the payment order or to pay the beneficiary on a FedNow funds-transfer business day that is later than the funds-transfer business day on which the order is received by the Federal Reserve Bank, unless the Federal Reserve Bank agrees with the sender in writing to follow such instructions.

9-829.6**SECTION 210.46—Payment by a Federal Reserve Bank to a Receiving Bank or Beneficiary**

(a) *Payment to a receiving bank.* Payment of a Federal Reserve Bank's obligation to pay a receiving bank (other than a Federal Reserve Bank) occurs at the earlier of the time when the amount of the payment order is credited to the receiving bank's settlement account or when the payment order is sent to the receiving bank.

(b) *Payment to a beneficiary.* Payment by a Federal Reserve Bank to a beneficiary of a payment order, where the Federal Reserve Bank is the beneficiary's bank, occurs at the earlier of the time when the amount of the payment order is credited to the beneficiary's settlement account or when notice of the credit is sent to the beneficiary.

9-829.7**SECTION 210.47—Federal Reserve Bank Liability; Payment of Compensation**

(a) *Damages.* In connection with its handling of a payment order under this subpart, a Federal Reserve Bank shall not be liable to a sender, receiving bank, beneficiary, or other Federal Reserve Bank, governed by this subpart, for any damages other than those payable under article 4A. A Federal Reserve Bank shall not agree to be liable to a sender, receiving bank, beneficiary, or other Federal Reserve Bank for consequential damages under section 4A-305(d) of article 4A.

(b) *Payment of compensation.*

(1) A Federal Reserve Bank shall satisfy its obligation, or that of another Federal Reserve Bank, to pay compensation in the

form of interest under article 4A by paying such compensation to a sender, receiving bank, beneficiary, or another party to the funds transfer that is entitled to such payment in an amount that is calculated in accordance with section 4A-506 of article 4A.

(2) If the sender or receiving bank that is the recipient of the payment of compensation is not the party entitled to compensation under article 4A, the sender or receiving bank shall pass through the benefit of the compensation by making an interest payment, as of the day the compensation was paid by the Federal Reserve Bank, to the party entitled to compensation. The interest payment that is made to the party entitled to compensation shall not be less than the value of the compensation that was paid by the Federal Reserve Bank to the sender or receiving bank. The party entitled to compensation may agree to accept compensation in a form other than a direct interest payment, provided that such an alternative form of compensation is not less than the value of the interest payment that otherwise would be made.

(c) *Nonwaiver of right of recovery.* Nothing in this subpart or any operating circular issued hereunder shall constitute, or be construed as constituting, a waiver by a Federal Reserve Bank of a cause of action for recovery under any applicable law of mistake and restitution.

APPENDIX A TO SUBPART C—Commentary

See 9-850.

APPENDIX A—UCC Article 4A

See 9-900.

Expedited Funds Availability Act

12 USC 4001 et seq.; 101 Stat. 635; Pub. L. 100-86 (August 10, 1987)

Competitive Equality Banking Act, Title VI

Section

- 601 Short title
- 602 Definitions
- 603 Expedited funds availability schedules
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- 606 Payment of interest
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SECTION 601—Short Title

12 USC 4001 et seq.; 101 Stat. 635; Pub. L. 100-86 (August 10, 1987)

This title may be cited as the “Expedited Funds Availability Act”.

[12 USC 4001 note.]

SECTION 602—Definitions

For purposes of this title—

- (1) The term “account” means a demand deposit account or other similar transaction account at a depository institution.
- (2) The term “Board” means the Board of Governors of the Federal Reserve System.
- (3) The term “business day” means any day other than a Saturday, Sunday, or legal holiday.
- (4) The term “cash” means United States coins and currency, including Federal Reserve notes.

9-676

(5) The term “cashier’s check” means any check which—

9-675

(A) is drawn on a depository institution;

(B) is signed by an officer or employee of such depository institution; and

(C) is a direct obligation of such depository institution.

(6) The term “certified check” means any check with respect to which a depository institution certifies that—

(A) the signature on the check is genuine; and

(B) such depository institution has set aside funds which—

(i) are equal to the amount of the check; and

(ii) will be used only to pay such check.

(7) The term “check” means any negotiable demand draft drawn on or payable through an office of a depository institution located in the United States. Such term does not include noncash items.

9-677

(8) The term “check clearinghouse association” means any arrangement by which participant depository institutions exchange deposited checks on a local basis, including an entire metropolitan area, without using the check processing facilities of the Federal Reserve System.

(9) The term “check processing region” means the geographical area served by a Federal Reserve bank check processing center or such larger area as the Board may prescribe by regulations.

(10) The term “consumer account” means any account used primarily for personal, family, or household purposes.

9-678

(11) The term “depository check” means any cashier’s check, certified check, teller’s

check, and any other functionally equivalent instrument as determined by the Board.

(12) The term “depository institution” has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act. Such term also includes an office, branch, or agency of a foreign bank located in the United States.

(13) The term “local originating depository institution” means any originating depository institution which is located in the same check processing region as the receiving depository institution.

9-679

(14) The term “noncash item” means—

(A) a check or other demand item to which a passbook, certificate, or other document is attached;

(B) a check or other demand item which is accompanied by special instructions, such as a request for special advise of payment or dishonor; or

(C) any similar item which is otherwise classified as a noncash item in regulations of the Board.

(15) The term “nonlocal originating depository institution” means any originating depository institution which is not a local depository institution.

9-680

(16) The term “proprietary ATM” means an automated teller machine which is —

(A) located—

(i) at or adjacent to a branch of the receiving depository institution; or

(ii) in close proximity, as defined by the Board, to a branch of the receiving depository institution; or

(B) owned by, operated exclusively for, or operated by the receiving depository institution.

(17) The term “originating depository institution” means the branch of a depository institution on which a check is drawn.

(18) The term “nonproprietary ATM” means an automated teller machine which is not a proprietary ATM.

9-681

(19) The term “participant” means a depository institution which—

(A) is located in the same geographic area as that served by a check clearinghouse association; and

(B) exchanges checks through the check clearinghouse association, either directly or through an intermediary.

(20) The term “receiving depository institution” means the branch of a depository institution or the proprietary ATM, located in the United States, in which a check is first deposited.

(21) The term “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands.

9-682

(22) The term “teller’s check” means any check issued by a depository institution and drawn on another depository institution.

(23) The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

(24) The term “unit of general local government” means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

(25) The term “wire transfer” has such meaning as the Board shall prescribe by regulations.

[12 USC 4001. As amended by act of May 24, 2018 (132 Stat. 1312).]

9-683

SECTION 603—Expedited Funds Availability Schedules

(a) *Next business day availability for certain deposits.*

(1) Except as provided in subsection (e) and in section 604, in any case in which—

(A) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

(B) funds are received by a depository institution by wire transfer for deposit in an account at such institution,

such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

9-684

(2) Funds deposited in an account at a depository institution by check shall be available for withdrawal not later than the business day after the business day on which such funds are deposited in the case of—

(A) a check which—

(i) is drawn on the Treasury of the United States; and

(ii) is endorsed only by the person to whom it was issued;

(B) a check which—

(i) is drawn by a State;

(ii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a State; and

(iv) is endorsed only by the person to whom it was issued;

(C) a check which—

(i) is drawn by a unit of general local government;

(ii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a unit of general local government; and

(iv) is endorsed only by the person to whom it was issued;

(D) the first \$200 deposited by check or checks on any one business day;

(E) a check deposited in a branch of a depository institution and drawn on the same or another branch of the same depository institution if both such branches are located in the same State or the same check processing region;

(F) a cashier's check, certified check, teller's check, or depository check which—

(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;

(ii) is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be; and

(iii) is endorsed only by the person to whom it was issued.

9-685

(b) *Permanent schedule.*

(1) Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which the funds involved are available for withdrawal.

(2) Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 4 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

9-686

(3) (A) Except as provided in subparagraph (B), funds deposited in an account in a depository institution by check (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day

after the business day on which such funds otherwise are available under paragraph (1) or (2).

(B) Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this paragraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under paragraph (1) or (2). If funds deposited by checks described in both paragraph (1) and paragraph (2) become available for cash withdrawal under this paragraph on the same business day, the limitation contained in this subparagraph shall apply to the aggregate amount of such funds.

(C) Any amount available for withdrawal under this paragraph shall be in addition to the amount available under subsection (a)(2)(D).

(4) This subsection shall apply with respect to funds deposited by check in an account at a depository institution on or after September 1, 1990, except that the Board may, by regulation, make this subsection or any part of this subsection applicable earlier than September 1, 1990.

9-687

(c) *Temporary schedule.*

(1) (A) Subject to subparagraph (B) of this paragraph, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(B) (i) Except as provided in clause (ii), funds deposited in an account in a depository institution by check drawn on a local depository institution that is not a participant in the same check clearinghouse association as the receiving depository institution (other than a check described in subsection (a)(2))

shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under subparagraph (A).

(ii) Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this subparagraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under subparagraph (A).

(iii) Any amount available for withdrawal under this subparagraph shall be in addition to the amount available under subsection (a)(2)(D).

9-688

(2) Subject to subsections (a)(2), (d), and (e) of this section and section 604, not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) This subsection shall apply with respect to funds deposited by check in an account at a depository institution after August 31, 1988, and before September 1, 1990, except as may be otherwise provided under subsection (b)(4).

9-689

(d) *Time period adjustments.*

(1) Notwithstanding any other provision of law, the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably expect to learn of the nonpayment of most items for each category of checks.

(2) Notwithstanding any other provision of

law, any time period established under subsection (b), (c), or (e) shall be extended by 1 business day in the case of any deposit which is both—

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.

9-690

(e) *Deposits at an ATM.*

(1) (A) Not more than 4 business days shall intervene between the business day a deposit described in subparagraph (B) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) A deposit is described in this subparagraph if it is—

- (i) a cash deposit;
- (ii) a deposit made by a check described in subsection (a)(2);
- (iii) a deposit made by a check drawn on a local originating depository institution (other than a check described in subsection (a)(2)); or
- (iv) a deposit made by a check drawn on a nonlocal originating depository institution (other than a check described in subsection (a)(2)).

9-692

(2) The provisions of subsections (a), (b), and (c) shall apply with respect to any funds deposited at a proprietary automated teller machine for deposit in an account at a depository institution.

(3) The Board shall, either directly or through the Consumer Advisory Council, establish and maintain a dialogue with depository institutions and their suppliers on the computer software and hardware available for use by automated teller machines,

and shall, not later than September 1 of each of the first 3 calendar years beginning after the date of the enactment of this title, report to the Congress regarding such software and hardware and regarding the potential for improving the processing of automated teller machine deposits.

9-693

(f) *Check return; notice of nonpayment.* No provision of this section shall be construed as requiring that, with respect to all checks deposited in a receiving depository institution—

- (1) such checks be physically returned to such depository institution; or
- (2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (a), (b), (c), or (e) or in the regulations issued under any such subsection.

[12 USC 4002. As amended by acts of Nov. 28, 1990 (104 Stat. 4424); Dec. 19, 1991 (105 Stat. 2307); July 21, 2010 (124 Stat. 2085, 2086); and May 24, 2018 (132 Stat. 1312).]

9-694

SECTION 604—Safeguard Exceptions

(a) *New accounts.* Notwithstanding section 603, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board, jointly with the Director of the Bureau of Consumer Financial Protection, may establish) beginning on the date such account is established—

(1) Except as provided in paragraph (3), in the case of—

- (A) any cash deposited in such account;
- (B) any funds received by such depository institution by wire transfer for deposit in such account;
- (C) any funds deposited in such account by cashier's check, certified check, teller's check, depository check, or traveler's check; and
- (D) any funds deposited by a government check which is described in subparagraph (A), (B), or (C) of section 603(a)(2),

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, on the business day after the business day on which such funds are received for deposit.

9-695

(2) In the case of any funds deposited in such account by a check (other than a check described in subparagraph (C) or (D) of paragraph (1)), the availability for withdrawal of such funds shall not be subject to the provisions of section 603(b), 603(c), or paragraph (1) of section 603(e).

(3) In the case of funds deposited in such account during such period by checks described in subparagraph (C) or (D) of paragraph (1) the aggregate amount of which exceeds \$5,000—

(A) paragraph (1) shall apply only with respect to the first \$5,000 of such aggregate amount; and

(B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

9-696

(b) *Large or redeposited checks; repeated overdrafts.* The Board, jointly with the Director of the Bureau of Consumer Financial Protection, may, by regulation, establish reasonable exceptions to any time limitation established under subsection (a)(2), (b), (c), or (e) of section 603 for—

(1) the amount of deposits by one or more checks that exceeds the amount of \$5,000 in any one day;

(2) checks that have been returned unpaid and redeposited; and

(3) deposit accounts which have been overdrawn repeatedly.

9-697

(c) *Reasonable cause exception.*

(1) In accordance with regulations which the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall prescribe, subsections (a)(2), (b), (c),

and (e) of section 603 shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f).

(2) No determination under this subsection may be based on any class of checks or persons.

9-698

(3) If the receiving depository institution determines that a check deposited in an account is a check described in paragraph (1), the receiving depository institution shall not assess any fee for any subsequent overdraft with respect to such account, if—

(A) the depositor was not provided with the written notice required under subsection (f) (with respect to such determination) at the time the deposit was made;

(B) the overdraft would not have occurred but for the fact that the funds so deposited are not available; and

(C) the amount of the check is collected from the originating depository institution.

(4) Each agency referred to in section 610(a) shall monitor compliance with the requirements of this subsection in each regular examination of a depository institution and shall describe in each report to the Congress the extent to which this subsection is being complied with. For the purpose of this paragraph, each depository institution shall retain a record of each notice provided under subsection (f) as a result of the application of this subsection.

9-699

(d) *Emergency conditions.* Subject to such regulations as the Board may prescribe, subsections (a)(2), (b), (c), and (e) of section 603

shall not apply to funds deposited by check in any receiving depository institution in the case of—

- (1) any interruption of communication facilities;
- (2) suspension of payments by another depository institution;
- (3) any war; or
- (4) any emergency condition beyond the control of the receiving depository institution,

if the receiving depository institution exercises such diligence as the circumstances require.

9-700

(e) *Prevention of fraud losses.*

(1) The Board, jointly with the Director of the Bureau of Consumer Financial Protection, may, by regulation or order, suspend the applicability of this title, or any portion thereof, to any classification of checks if the Board, jointly with the Director of the Bureau of Consumer Financial Protection, determines that—

- (A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud, and
- (B) suspension of this title, or such portion of this title, with regard to the classification of checks involved in such fraud is necessary to diminish the volume of such fraud.

(2) No regulation prescribed or order issued under paragraph (1) shall remain in effect for more than 45 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session).

(3) (A) Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall transmit a report of such action to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) Each report under subparagraph (A) shall contain—

- (i) the specific reason for prescribing the regulation or issuing the order;

(ii) evidence considered by the Board, jointly with the Director of the Bureau of Consumer Financial Protection, in making the determination under paragraph (1) with respect to such regulation or order; and

(iii) specific examples of the check-related fraud giving rise to such regulation or order.

9-701

(f) *Notice of exception; availability within reasonable time.*

(1) If any exception contained in this section (other than subsection (a)) applies with respect to funds deposited in an account at a depository institution—

(A) the depository institution shall provide notice in the manner provided in paragraph (2) of—

- (i) the time period within which the funds shall be made available for withdrawal; and
- (ii) the reason the exception was invoked; and

(B) except where other time periods are specifically provided in this title, the availability of the funds deposited shall be governed by the policy of the receiving depository institution, but shall not exceed a reasonable period of time as determined by the Board, jointly with the Director of the Bureau of Consumer Financial Protection.

9-702

(2) The notice required under paragraph (1)(A) with respect to a deposit to which an exception contained in this section applies shall be made by the time provided in the following subparagraphs:

(A) In the case of a deposit made in person by the depositor at the receiving depository institution, the depository institution shall immediately provide such notice in writing to the depositor.

(B) In the case of any other deposit (other than a deposit described in subparagraph (C)), the receiving depository institution shall mail the notice to the depositor not later than the close of the

next business day following the business day on which the deposit is received.

(C) In the case of a deposit to which subsection (d) or (e) applies, notice shall be provided by the depository institution in accordance with regulations of the Board, jointly with the Director of the Bureau of Consumer Financial Protection.

(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.

9-703

(3) If the facts upon which the determination of the applicability of an exception contained in subsection (b) or (c) to any deposit only become known to the receiving depository institution after the time notice is required under paragraph (2) with respect to such deposit, the depository institution shall mail such notice to the depositor as soon as practicable, but not later than the first business day following the day such facts become known to the depository institution.

[12 USC 4003. As amended by acts of Dec. 19, 1991 (105 Stat. 2307) and July 21, 2010 (124 Stat. 2085, 2086).]

9-704

SECTION 605—Disclosure of Funds Availability Policies

(a) *Notice for new accounts.* Before an account is opened at a depository institution, the depository institution shall provide written notice to the potential customer of the specific policy of such depository institution with re-

spect to when a customer may withdraw funds deposited into the customer's account.

(b) *Preprinted deposit slips.* All preprinted deposit slips that a depository institution furnishes to its customers shall contain a summary notice, as prescribed by the Board, jointly with the Director of the Bureau of Consumer Financial Protection, in regulations, that deposited items may not be available for immediate withdrawal.

9-705

(c) *Mailing of notice.*

(1) In the first regularly scheduled mailing to customers occurring after the effective date of this section, but not more than 60 days after such effective date, each depository institution shall send a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into such customer's account, unless the depository institution has provided a disclosure which meets the requirements of this section before such effective date.

(2) A depository institution shall send a written notice to customers at least 30 days before implementing any change to the depository institution's policy with respect to when customers may withdraw funds deposited into consumer accounts, except that any change which expedites the availability of such funds shall be disclosed not later than 30 days after implementation.

(3) Upon the request of any person, a depository institution shall provide or send such person a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into a customer's account.

9-706

(d) *Posting of notice.*

(1) Each depository institution shall post, in a conspicuous place in each location where deposits are accepted by individuals employed by such depository institution, a specific notice which describes the time periods applicable to the availability of funds deposited in a consumer account.

(2) In the case of any automated teller machine at which any funds are received for deposit in an account at any depository institution, the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post or provide a general notice that funds deposited in such machine may not be immediately available for withdrawal.

9-707

(e) *Notice of interest payment policy.* If a depository institution described in section 606(b) begins the accrual of interest or dividends at a later date than the date described in section 606(a) with respect to all funds, including cash, deposited in an interest-bearing account at such depository institution, any notice required to be provided under subsections (a) and (c) shall contain a written description of the time at which such depository institution begins to accrue interest or dividends on such funds.

9-708

(f) *Model disclosure forms.*

(1) The Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language.

(2) A depository institution shall be deemed to be in compliance with the requirements of this section if such institution—

(A) uses any appropriate model form or clause as published by the Board, jointly with the Director of the Bureau of Consumer Financial Protection, or

(B) uses any such model form or clause and changes such form or clause by —

- (i) deleting any information which is not required by this title; or
- (ii) rearranging the format.

(3) Nothing in this title requires the use of any such model form or clause prescribed by the Board, jointly with the Director of

the Bureau of Consumer Financial Protection, under this subsection.

(4) Model disclosure forms and clauses shall be adopted by the Board, jointly with the Director of the Bureau of Consumer Financial Protection, only after notice duly given in the *Federal Register* and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

[12 USC 4004. As amended by act of July 21, 2010 (124 Stat. 2086).]

9-709**SECTION 606—Payment of Interest**

(a) *In general.* Except as provided in subsection (b) or (c) and notwithstanding any other provision of law, interest shall accrue on funds deposited in an interest-bearing account at a depository institution beginning not later than the business day on which the depository institution receives provisional credit for such funds.

9-710

(b) *Special rule for credit unions.* Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) begins the accrual of interest or dividends at a later date than the date described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of the interest payment policy in the manner required under section 605(e).

(c) *Exception for checks returned unpaid.* No provision of this title shall be construed as requiring the payment of interest or dividends on funds deposited by a check which is returned unpaid.

[12 USC 4005.]

9-711**SECTION 607—Miscellaneous Provisions**

(a) *After-hours deposits.* For purposes of this title, any deposit which is made on a Saturday, Sunday, legal holiday, or after the close

of business on any business day shall be deemed to have been made on the next business day.

(b) *Availability at start of business day.* Except as provided in subsections (b)(3) and (c)(1)(B) of section 603, if any provision of this title requires that funds be available for withdrawal on any business day, such funds shall be available for withdrawal at the start of such business day.

9-712

(c) *Effect on policies of depository institutions.* No provision of this title shall be construed as—

(1) prohibiting a depository institution from making funds available for withdrawal in a shorter period of time than the period of time required by this title; or

(2) affecting a depository institution's right—

(A) to accept or reject a check for deposit;

(B) to revoke any provisional settlement made by the depository institution with respect to a check accepted by such institution for deposit;

(C) to charge back the depositor's account for the amount of such check; or

(D) to claim a refund of such provisional credit.

9-713

(d) *Prohibition on freezing certain funds in an account.* In any case in which a check is deposited in an account at a depository institution and the funds represented by such check are not yet available for withdrawal pursuant to this title, the depository institution may not freeze any other funds in such account (which are otherwise available for withdrawal pursuant to this title) solely because the funds so deposited are not yet available for withdrawal.

9-714

(e) *Employee training on and compliance with the requirements of this title.* Each depository institution shall—

(1) take such actions as may be necessary fully to inform each employee (who per-

forms duties subject to the requirements of this title) of the requirements of this title; and

(2) establish and maintain procedures reasonably designed to assure and monitor employee compliance with such requirements.

(f) *Adjustments to dollar amounts for inflation.* The dollar amounts under this title shall be adjusted every 5 years after December 31, 2011, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of \$25.

[12 USC 4006. As amended by act of July 21, 2010 (124 Stat. 2086).]

9-715

SECTION 608—Effect on State Law

(a) *In general.* Any law or regulation of any State in effect on September 1, 1989, which requires that funds deposited or received for deposit in an account at a depository institution chartered by such State be made available for withdrawal in a shorter period of time than the period of time provided in this title or in regulations prescribed by the Board under this title (as in effect on September 1, 1989) shall—

(1) supersede the provisions of this title and any regulations by the Board to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal; and

(2) apply to all federally insured depository institutions located within such State.

9-716

(b) *Override of certain state laws.* Except as provided in subsection (a), this title and regulations prescribed under this title shall supersede any provision of the law of any State, including the Uniform Commercial Code as in effect in such State, which is inconsistent with this title or such regulations.

[12 USC 4007.]

9-717**SECTION 609—Regulations and Reports by Board**

(a) *In general.* After notice and opportunity to submit comment in accordance with section 553(c) of title 5, United States Code, the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall prescribe regulations—

- (1) to carry out the provisions of this title;
- (2) to prevent the circumvention or evasion of such provisions; and
- (3) to facilitate compliance with such provisions.

9-718

(b) *Regulation relating to improvement of check processing system.* In order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that—

- (1) depository institutions be charged based upon notification that a check or similar instrument will be presented for payment;
- (2) the Federal Reserve banks and depository institutions provide for check truncation;
- (3) depository institutions be provided incentives to return items promptly to the depository institution of first deposit;
- (4) the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks;
- (5) each depository institution and Federal Reserve bank—

(A) place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations; and

(B) take such actions as are necessary to—

- (i) automate the process of reading endorsements; and
- (ii) eliminate unnecessary endorsements;

(6) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—

(A) such originating depository institution determines whether it will pay such check; and

(B) if such originating depository institution determines that it will not pay such check, such originating depository institution directly notify the receiving depository institution of such determination;

(7) regardless of where a check is cleared initially, all returned checks be eligible to be returned through the Federal Reserve System;

(8) Federal Reserve banks and depository institutions participate in the development and implementation of an electronic clearinghouse process to the extent the Board determines, pursuant to the study under subsection (f), that such a process is feasible; and

(9) originating depository institutions be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

9-719

(c) *Regulatory responsibility of Board for payment system.*

(1) In order to carry out the provisions of this title, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

(A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and

(B) any related function of the payment system with respect to checks.

(2) The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

9-720

(d) *Reports.*

(1) (A) The Board shall transmit a report to both Houses of the Congress not later than 18, 30, and 48 months after the date of the enactment of this title.

(B) Each such report shall describe—

- (i) the actions taken and progress

made by the Board to implement the schedules established in section 603, and

(ii) the impact of this title on consumers and depository institutions.

(2) (A) The Board shall transmit a report to both Houses of the Congress not later than 2 years after the date of the enactment of this title regarding the effects the temporary schedule established under section 603(c) have had on depository institutions and the public.

(B) Such report shall also assess the potential impact the implementation of the schedule established in section 603(b) will have on depository institutions and the public, including an estimate of the risks to and losses of depository institutions and the benefits to consumers. Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

(3) Not later than 6 months after section 603(b) takes effect, the Comptroller General of the United States shall transmit a report to the Congress evaluating the implementation and administration of this title.

9-721

(e) In prescribing regulations under subsections (a) and (b), the Board and the Director of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

(f) *Electronic clearinghouse study.*

(1) The Board shall study the feasibility of modernizing and accelerating the check payment system through the development of an electronic clearinghouse process utilizing existing telecommunications technology to avoid the necessity of actual presentment of the paper instrument to a payor institution before such institution is charged for the item.

(2) In connection with the study required under paragraph (1), the Board shall—

(A) consult with appropriate experts in telecommunications technology; and

(B) consider all practical and legal impediments to the development of an electronic clearinghouse process.

(3) The Board shall report its conclusions to the Congress within 9 months of the date of the enactment of this title.

[12 USC 4008. As amended by act of July 21, 2010 (124 Stat. 2086).]

9-722

SECTION 610—Administrative Enforcement

(a) *Administrative enforcement.* Compliance with the requirements imposed under this title, including regulations prescribed by and orders issued by the Board of Governors of the Federal Reserve System under this title, shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union.

The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

9-723(b) *Additional powers.*

(1) For purposes of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in such subsection may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

9-724(c) *Enforcement by the Board.*

(1) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the Board of Governors of the Federal Reserve System shall enforce such requirements.

(2) If the Board determines that—

(A) any depository institution which is not a depository institution described in subsection (a), or

(B) any other person subject to the authority of the Board under this title, including any person subject to the authority of the Board under section 605(d)(2) or 609(c),

has failed to comply with any requirement imposed by this title or by the Board under this title, the Board may issue an order prohibiting any depository institution, any Federal Reserve bank, or any other person subject to the authority of the Board from engaging in any activity or transaction which directly or indirectly involves such noncomplying depository institution or per-

son (including any activity or transaction involving the receipt, payment, collection, and clearing of checks and any related function of the payment system with respect to checks).

9-725

(d) *Procedural rules.* The authority of the Board to prescribe regulations under this title does not impair the authority of any other agency designated in this section to make rules regarding its own procedures in enforcing compliance with requirements imposed under this title.

[12 USC 4009. As amended by acts of Aug. 9, 1989 (103 Stat. 438) and Dec. 19, 1991 (105 Stat. 2303).]

9-726

SECTION 611—Civil Liability

(a) *Civil liability.* Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person other than another depository institution is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2) (A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than \$100 nor greater than \$1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of \$500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

9-727

(b) *Class action awards.* In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

- (1) the amount of any actual damages awarded;
- (2) the frequency and persistence of failures of compliance;
- (3) the resources of the depository institution;
- (4) the number of persons adversely affected; and
- (5) the extent to which the failure of compliance was intentional.

(c) *Bona fide errors.*

- (1) A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.
- (2) Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

9-728

(d) *Jurisdiction.* Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) *Reliance on Board rulings.* No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

9-729

(f) *Authority to establish rules regarding losses and liability among depository institutions.* The Board is authorized to impose on or allocate among depository institutions the risks of loss and liability in connection with any aspect of the payment system, including the receipt, payment, collection, or clearing of checks, and any related function of the payment system with respect to checks. Liability under this subsection shall not exceed the amount of the check giving rise to the loss or liability, and, where there is bad faith, other damages, if any, suffered as a proximate consequence of any act or omission giving rise to the loss or liability.

[12 USC 4010.]

9-730**SECTION 612—Parity in Clearing**

(a) *In general.* Section 11A of the Federal Reserve Act (12 U.S.C. 248a) is amended by adding at the end thereof the following:

“(e) All depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)), may receive for deposit and as deposits any evidences of transaction accounts, as defined by section 19(b)(1) (12 U.S.C. 461(b)(1)) from other depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)) or from any office of any Federal Reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.”

(b) *Effective date.* The amendment made by subsection (a) shall take effect on the date of enactment of this title.

[12 USC 248a note.]

9-731**SECTION 613—Effective Dates**

(a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this title.

(b) Sections 603, 604, 605, 606, 610, and 611 shall take effect on September 1, 1988.

[12 USC 4001 note.]

Check Clearing for the 21st Century Act

12 USC 5001 et seq.; 117 Stat. 1177; Pub. L. 108-100 (October 28, 2003)

	9-732
Section	
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SECTION 1—Short Title; Table of Contents

(a) *Short title.* This Act may be cited as the “Check Clearing for the 21st Century Act” or the “Check 21 Act”.

(b) *Table of contents.* * * *

[12 USC 5001 note.]

9-732.1

SECTION 2—Findings; Purposes

(a) *Findings.* The Congress finds as follows:
(1) In the Expedited Funds Availability Act, enacted on August 10, 1987, the Congress directed the Board of Governors of the Fed-

eral Reserve System to consider establishing regulations requiring Federal reserve banks and depository institutions to provide for check truncation, in order to improve the check processing system.

(2) In that same Act, the Congress—

(A) provided the Board of Governors of the Federal Reserve System with full authority to regulate all aspects of the payment system, including the receipt, payment, collection, and clearing of checks, and related functions of the payment system pertaining to checks; and

(B) directed that the exercise of such authority by the Board superseded any State law, including the Uniform Commercial Code, as in effect in any State.

(3) Check truncation is no less desirable in 2003 for both financial service customers and the financial services industry, to reduce costs, improve efficiency in check collections, and expedite funds availability for customers than it was over 15 years ago when Congress first directed the Board to consider establishing such a process.

9-732.2

(b) *Purposes.* The purposes of this Act are as follows:

(1) To facilitate check truncation by authorizing substitute checks.

(2) To foster innovation in the check collection system without mandating receipt of checks in electronic form.

(3) To improve the overall efficiency of the Nation’s payments system.

[12 USC 5001.]

9-733

SECTION 3—Definitions

For purposes of this Act, the following definitions shall apply:

(1) The term “account” means a deposit account at a bank.

(2) The term “bank” means any person that is located in a State and engaged in the business of banking and includes—

(A) any depository institution (as defined

- in section 19(b)(1)(A) of the Federal Reserve Act);
- (B) any Federal reserve bank;
- (C) any Federal home loan bank; or
- (D) to the extent it acts as a payor—
- (i) the Treasury of the United States;
 - (ii) the United States Postal Service;
 - (iii) a State government; or
 - (iv) a unit of general local government (as defined in section 602(24) of the Expedited Funds Availability Act).
- (3) (A) The term “collecting bank” means any bank handling a check for collection except the paying bank.
- (B) The term “depository bank” means—
- (i) the first bank to which a check is transferred, even if such bank is also the paying bank or the payee; or
 - (ii) a bank to which a check is transferred for deposit in an account at such bank, even if the check is physically received and indorsed first by another bank.
- (C) The term “paying bank” means—
- (i) the bank by which a check is payable, unless the check is payable at or through another bank and is sent to the other bank for payment or collection; or
 - (ii) the bank at or through which a check is payable and to which the check is sent for payment or collection.
- (D) (i) The term “returning bank” means a bank (other than the paying or depository bank) handling a returned check or notice in lieu of return.
- (ii) No provision of this Act shall be construed as affecting the treatment of a returning bank as a collecting bank for purposes of section 4-202(b) of the Uniform Commercial Code.
- 9-733.1**
- (4) The term “Board” means the Board of Governors of the Federal Reserve System.
- (5) The term “business day” has the same meaning as in section 602(3) of the Expedited Funds Availability Act.
- (6) The term “check”—
- (A) means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check; and
- (B) does not include a noncash item or an item payable in a medium other than United States dollars.
- (7) The term “consumer” means an individual who—
- (A) with respect to a check handled for forward collection, draws the check on a consumer account; or
- (B) with respect to a check handled for return, deposits the check into, or cashes the check against, a consumer account.
- (8) The term “consumer account” has the same meaning as in section 602(10) of the Expedited Funds Availability Act.
- (9) The term “customer” means a person having an account with a bank.
- 9-733.2**
- (10) The term “forward collection” means the transfer by a bank of a check to a collecting bank for settlement or the paying bank for payment.
- (11) The term “indemnifying bank” means a bank that is providing an indemnity under section 6 with respect to a substitute check.
- (12) The terms “MICR line” and “magnetic ink character recognition line” mean the numbers, which may include the bank routing number, account number, check number, check amount, and other information, that are printed near the bottom of a check in magnetic ink in accordance with generally applicable industry standards.
- (13) The term “noncash item” has the same meaning as in section 602(14) of the Expedited Funds Availability Act.
- (14) The term “person” means a natural person, corporation, unincorporated company, partnership, government unit or instrumentality, trust, or any other entity or organization.
- 9-733.3**
- (15) The term “reconverting bank” means—

(A) the bank that creates a substitute check; or

(B) if a substitute check is created by a person other than a bank, the first bank that transfers or presents such substitute check.

(16) The term “substitute check” means a paper reproduction of the original check that—

(A) contains an image of the front and back of the original check;

(B) bears a MICR line containing all the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks;

(C) conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and

(D) is suitable for automated processing in the same manner as the original check.

(17) The term “State” has the same meaning as in section 3(a) of the Federal Deposit Insurance Act.

9-733.4

(18) The term “truncate” means to remove an original paper check from the check collection or return process and send to a recipient, in lieu of such original paper check, a substitute check or, by agreement, information relating to the original check (including data taken from the MICR line of the original check or an electronic image of the original check), whether with or without subsequent delivery of the original paper check.

(19) The term “Uniform Commercial Code” means the Uniform Commercial Code in effect in a State.

(20) Unless the context requires otherwise, the terms not defined in this section shall have the same meanings as in the Uniform Commercial Code.

[12 USC 5002.]

9-734

SECTION 4—General Provisions Governing Substitute Checks

(a) *No agreement required.* A person may de-

posit, present, or send for collection or return a substitute check without an agreement with the recipient, so long as a bank has made the warranties in section 5 with respect to such substitute check.

(b) *Legal equivalence.* A substitute check shall be the legal equivalent of the original check for all purposes, including any provision of any Federal or State law, and for all persons if the substitute check—

(1) accurately represents all of the information on the front and back of the original check as of the time the original check was truncated; and

(2) bears the legend: “This is a legal copy of your check. You can use it the same way you would use the original check.”.

9-734.1

(c) *Endorsements.* A bank shall ensure that the substitute check for which the bank is the reconverting bank bears all endorsements applied by parties that previously handled the check (whether in electronic form or in the form of the original paper check or a substitute check) for forward collection or return.

(d) *Identification of reconverting bank.* A bank shall identify itself as a reconverting bank on any substitute check for which the bank is a reconverting bank so as to preserve any previous reconverting bank identifications in conformance with generally applicable industry standards.

(e) *Applicable law.* A substitute check that is the legal equivalent of the original check under subsection (b) shall be subject to any provision, including any provision relating to the protection of customers, of part 229 of title 12 of the Code of Federal Regulations, the Uniform Commercial Code, and any other applicable Federal or State law as if such substitute check were the original check, to the extent such provision of law is not inconsistent with this Act.

[12 USC 5003.]

9-734.5

SECTION 5—Substitute Check Warranties

A bank that transfers, presents, or returns a

substitute check and receives consideration for the check warrants, as a matter of law, to the transferee, any subsequent collecting or returning bank, the depositary bank, the drawee, the drawer, the payee, the depositor, and any endorser (regardless of whether the warrantee receives the substitute check or another paper or electronic form of the substitute check or original check) that—

- (1) the substitute check meets all the requirements for legal equivalence under section 4(b); and
- (2) no depositary bank, drawee, drawer, or endorser will receive presentment or return of the substitute check, the original check, or a copy or other paper or electronic version of the substitute check or original check such that the bank, drawee, drawer, or endorser will be asked to make a payment based on a check that the bank, drawee, drawer, or endorser has already paid.

[12 USC 5004.]

9-735

SECTION 6—Indemnity

(a) *Indemnity.* A reconverting bank and each bank that subsequently transfers, presents, or returns a substitute check in any electronic or paper form, and receives consideration for such transfer, presentment, or return shall indemnify the transferee, any subsequent collecting or returning bank, the depositary bank, the drawee, the drawer, the payee, the depositor, and any endorser, up to the amount described in subsections (b) and (c), as applicable, to the extent of any loss incurred by any recipient of a substitute check if that loss occurred due to the receipt of a substitute check instead of the original check.

(b) *Indemnity amount.*

- (1) The amount of the indemnity under subsection (a) shall be the amount of any loss (including costs and reasonable attorney's fees and other expenses of representation) proximately caused by a breach of a warranty provided under section 5.
- (2) In the absence of a breach of a warranty provided under section 5, the amount

of the indemnity under subsection (a) shall be the sum of—

- (A) the amount of any loss, up to the amount of the substitute check; and
- (B) interest and expenses (including costs and reasonable attorney's fees and other expenses of representation).

9-735.1

(c) *Comparative negligence.*

- (1) If a loss described in subsection (a) results in whole or in part from the negligence or failure to act in good faith on the part of an indemnified party, then that party's indemnification under this section shall be reduced in proportion to the amount of negligence or bad faith attributable to that party.
- (2) Nothing in this subsection reduces the rights of a consumer or any other person under the Uniform Commercial Code or other applicable provision of Federal or State law.

(d) *Effect of producing original check or copy.*

(1) If the indemnifying bank produces the original check or a copy of the original check (including an image or a substitute check) that accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated) or is otherwise sufficient to determine whether or not a claim is valid, the indemnifying bank shall—

- (A) be liable under this section only for losses covered by the indemnity that are incurred up to the time that the original check or copy is provided to the indemnified party; and
- (B) have a right to the return of any funds it has paid under the indemnity in excess of those losses.

(2) The production of the original check, a substitute check, or a copy under paragraph (1) by an indemnifying bank shall not absolve the bank from any liability on a warranty established under this Act or any other provision of law.

9-735.2

(e) *Subrogation of rights.*

(1) Each indemnifying bank shall be subrogated to the rights of any indemnified party to the extent of the indemnity.

(2) A bank that indemnifies a party under this section may attempt to recover from another party based on a warranty or other claim.

(3) Each indemnified party shall have a duty to comply with all reasonable requests for assistance from an indemnifying bank in connection with any claim the indemnifying bank brings against a warrantor or other party related to a check that forms the basis for the indemnification.

[12 USC 5005.]

9-735.5

SECTION 7—Expedited Recredit for Consumers

(a) Recredit claims.

(1) A consumer may make a claim for expedited recredit from the bank that holds the account of the consumer with respect to a substitute check, if the consumer asserts in good faith that—

(A) the bank charged the consumer's account for a substitute check that was provided to the consumer;

(B) either—

(i) the check was not properly charged to the consumer's account; or

(ii) the consumer has a warranty claim with respect to such substitute check;

(C) the consumer suffered a resulting loss; and

(D) the production of the original check or a better copy of the original check is necessary to determine the validity of any claim described in subparagraph (B).

(2) Any claim under paragraph (1) with respect to a consumer account may be submitted by a consumer before the end of the 40-day period beginning on the later of—

(A) the date on which the financial institution mails or delivers, by a means agreed to by the consumer, the periodic statement of account for such account which contains information concerning the transaction giving rise to the claim; or

(B) the date on which the substitute check is made available to the consumer.

(3) If the ability of the consumer to submit the claim within the 40-day period under paragraph (2) is delayed due to extenuating circumstances, including extended travel or the illness of the consumer, the 40-day period shall be extended by a reasonable amount of time.

9-735.6

(b) *Procedures for claims.*

(1) To make a claim for an expedited recredit under subsection (a) with respect to a substitute check, the consumer shall provide to the bank that holds the account of such consumer—

(A) a description of the claim, including an explanation of—

(i) why the substitute check was not properly charged to the consumer's account; or

(ii) the warranty claim with respect to such check;

(B) a statement that the consumer suffered a loss and an estimate of the amount of the loss;

(C) the reason why production of the original check or a better copy of the original check is necessary to determine the validity of the charge to the consumer's account or the warranty claim; and

(D) sufficient information to identify the substitute check and to investigate the claim.

(2) *Claim in writing.*

(A) The bank holding the consumer account that is the subject of a claim by the consumer under subsection (a) may, in the discretion of the bank, require the consumer to submit the information required under paragraph (1) in writing.

(B) A bank that requires a submission of information under subparagraph (A) may permit the consumer to make the submission electronically, if the consumer has agreed to communicate with the bank in that manner.

9-735.7

(c) *Recredit to consumer.*

(1) The bank shall recredit a consumer ac-

count in accordance with paragraph (2) for the amount of a substitute check that was charged against the consumer account if—

(A) a consumer submits a claim to the bank with respect to that substitute check that meets the requirement of subsection (b); and

(B) the bank has not—

(i) provided to the consumer—

(I) the original check; or

(II) a copy of the original check (including an image or a substitute check) that accurately represents all of the information on the front and back of the original check, as of the time at which the original check was truncated; and

(ii) demonstrated to the consumer that the substitute check was properly charged to the consumer account.

(2) (A) The bank shall recredit the consumer's account for the amount described in paragraph (1) no later than the end of the business day following the business day on which the bank determines the consumer's claim is valid.

(B) If the bank has not yet determined that the consumer's claim is valid before the end of the 10th business day after the business day on which the consumer submitted the claim, the bank shall recredit the consumer's account for—

(i) the lesser of the amount of the substitute check that was charged against the consumer account, or \$2,500, together with interest if the account is an interest-bearing account, no later than the end of such 10th business day; and

(ii) the remaining amount of the substitute check that was charged against the consumer account, if any, together with interest if the account is an interest-bearing account, not later than the 45th calendar day following the business day on which the consumer submits the claim.

9-735.8

(d) *Availability of recredit.*

(1) Except as provided in paragraph (2), a bank that provides a recredit to a consumer account under subsection (c) shall make the

recredited funds available for withdrawal by the consumer by the start of the next business day after the business day on which the bank recredits the consumer's account under subsection (c).

(2) A bank may delay availability to a consumer of a recredit provided under subsection (c)(2)(B)(i) until the start of either the business day following the business day on which the bank determines that the consumer's claim is valid or the 45th calendar day following the business day on which the consumer submits a claim for such recredit in accordance with subsection (b), whichever is earlier, in any of the following circumstances:

(A) The claim is made during the 30-day period beginning on the business day the consumer account was established.

(B) Without regard to the charge that is the subject of the claim for which the recredit was made—

(i) on 6 or more business days during the 6-month period ending on the date on which the consumer submits the claim, the balance in the consumer account was negative or would have become negative if checks or other charges to the account had been paid; or

(ii) on 2 or more business days during such 6-month period, the balance in the consumer account was negative or would have become negative in the amount of \$5,000 or more if checks or other charges to the account had been paid.

(C) The bank has reasonable cause to believe that the claim is fraudulent, based on facts (other than the fact that the check in question or the consumer is of a particular class) that would cause a well-grounded belief in the mind of a reasonable person that the claim is fraudulent.

(3) No bank that, in accordance with paragraph (2), delays the availability of a recredit under subsection (c) to any consumer account may impose any overdraft fees with respect to drafts drawn by the consumer on such recredited amount before the end of the 5-day period beginning on the date notice of the delay in the availabil-

ity of such amount is sent by the bank to the consumer.

9-735.9

(e) *Reversal of recredit.* A bank may reverse a recredit to a consumer account if the bank—

- (1) determines that a substitute check for which the bank recredited a consumer account under subsection (c) was in fact properly charged to the consumer account; and
- (2) notifies the consumer in accordance with subsection (f)(3).

(f) *Notice to consumer.*

(1) If a bank determines that a substitute check subject to the consumer's claim was in fact properly charged to the consumer's account, the bank shall send to the consumer, no later than the business day following the business day on which the bank makes a determination—

- (A) the original check or a copy of the original check (including an image or a substitute check) that—
 - (i) accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated); or
 - (ii) is otherwise sufficient to determine whether or not the consumer's claim is valid; and

(B) an explanation of the basis for the determination by the bank that the substitute check was properly charged, including a statement that the consumer may request copies of any information or documents on which the bank relied in making the determination.

(2) If a bank recredits a consumer account under subsection (c), the bank shall send to the consumer, no later than the business day following the business day on which the bank makes the recredit, a notice of—

- (A) the amount of the recredit; and
- (B) the date the recredited funds will be available for withdrawal.

(3) In addition to the notice required under paragraph (1), if a bank reverses a recredited amount under subsection (e), the bank shall send to the consumer, no later than the business day following the busi-

ness day on which the bank reverses the recredit, a notice of—

- (A) the amount of the reversal; and
- (B) the date the recredit was reversed.

(4) A notice described in this subsection shall be delivered by United States mail or by any other means through which the consumer has agreed to receive account information.

9-736

(g) *Other claims not affected.* Providing a recredit in accordance with this section shall not absolve the bank from liability for a claim made under any other law, such as a claim for wrongful dishonor under the Uniform Commercial Code, or from liability for additional damages under section 6 or 10.

(h) *Clarification concerning consumer possession.* A consumer who was provided a substitute check may make a claim for an expedited recredit under this section with regard to a transaction involving the substitute check whether or not the consumer is in possession of the substitute check.

(i) *Scope of application.* This section shall only apply to customers who are consumers.

[12 USC 5006.]

9-736.5

SECTION 8—Expedited Recredit Procedures for Banks

(a) *Recredit claims.*

(1) A bank may make a claim against an indemnifying bank for expedited recredit for which that bank is indemnified if—

- (A) the claimant bank (or a bank that the claimant bank has indemnified) has received a claim for expedited recredit from a consumer under section 7 with respect to a substitute check or would have been subject to such a claim had the consumer's account been charged;
- (B) the claimant bank has suffered a resulting loss or is obligated to recredit a consumer account under section 7 with respect to such substitute check; and
- (C) production of the original check, another substitute check, or a better copy of

the original check is necessary to determine the validity of the charge to the customer account or any warranty claim connected with such substitute check.

(2) Any claim under paragraph (1) may be submitted by the claimant bank to an indemnifying bank before the end of the 120-day period beginning on the date of the transaction that gave rise to the claim.

9-736.6

(b) *Procedures for claims.*

(1) To make a claim under subsection (a) for an expedited recredit relating to a substitute check, the claimant bank shall send to the indemnifying bank—

(A) a description of—

(i) the claim, including an explanation of why the substitute check cannot be properly charged to the consumer account; or

(ii) the warranty claim;

(B) a statement that the claimant bank has suffered a loss or is obligated to recredit the consumer's account under section 7, together with an estimate of the amount of the loss or recredit;

(C) the reason why production of the original check, another substitute check, or a better copy of the original check is necessary to determine the validity of the charge to the consumer account or the warranty claim; and

(D) information sufficient for the indemnifying bank to identify the substitute check and to investigate the claim.

(2) If the information submitted by a claimant bank pursuant to paragraph (1) in connection with a claim for an expedited recredit includes a copy of any substitute check for which any such claim is made, the claimant bank shall take reasonable steps to ensure that any such copy cannot be—

(A) mistaken for the legal equivalent of the check under section 4(b); or

(B) sent or handled by any bank, including the indemnifying bank, as a forward collection or returned check.

(3) (A) An indemnifying bank may, in the discretion of the bank, require the claimant bank to submit the information re-

quired by paragraph (1) in writing, including a copy of the written or electronically submitted claim, if any, that the consumer provided in accordance with section 7(b).

(B) An indemnifying bank that requires a submission of information under subparagraph (A) may permit the claimant bank to make the submission electronically, if the claimant bank has agreed to communicate with the indemnifying bank in that manner.

9-736.7

(c) *Recredit by indemnifying bank.*

(1) No later than 10 business days after the business day on which an indemnifying bank receives a claim under subsection (a) from a claimant bank with respect to a substitute check, the indemnifying bank shall—

(A) provide, to the claimant bank, the original check (with respect to such substitute check) or a copy of the original check (including an image or a substitute check) that—

(i) accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated); or

(ii) is otherwise sufficient to determine the bank's claim is not valid; and

(B) recredit the claimant bank for the amount of the claim up to the amount of the substitute check, plus interest if applicable; or

(C) provide information to the claimant bank as to why the indemnifying bank is not obligated to comply with subparagraph (A) or (B).

(2) Providing a recredit under this subsection to a claimant bank with respect to a substitute check shall not absolve the indemnifying bank from liability for claims brought under any other law or from additional damages under section 6 or 10 with respect to such check.

(3) If a claimant bank reverses, in accordance with section 7(e), a recredit previously made to a consumer account under section 7(c), or otherwise receives a credit or recredit with regard to such substitute check, the claimant bank shall promptly re-

fund to any indemnifying bank any amount previously advanced by the indemnifying bank in connection with such substitute check.

9-736.8

(d) *Production of original check or a sufficient copy governed by section 6(d).* If the indemnifying bank provides the claimant bank with the original check or a copy of the original check (including an image or a substitute check) under subsection (c)(1)(A), section 6(d) shall govern any right of the indemnifying bank to any repayment of any funds the indemnifying bank has recredited to the claimant bank pursuant to subsection (c).

[12 USC 5007.]

9-737

SECTION 9—Delays in an Emergency

A delay by a bank beyond the time limits prescribed or permitted by this Act shall be excused if the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of a bank and if the bank uses such diligence as the circumstances require.

[12 USC 5008.]

9-737.4

SECTION 10—Measure of Damages

(a) *Liability.*

(1) Except as provided in section 6, any person who, in connection with a substitute check, breaches any warranty under this Act or fails to comply with any requirement imposed by, or regulation prescribed pursuant to, this Act with respect to any other person shall be liable to such person in an amount equal to the sum of—

(A) the lesser of—

- (i) the amount of the loss suffered by the other person as a result of the breach or failure; or
- (ii) the amount of the substitute check; and

(B) interest and expenses (including costs and reasonable attorney's fees and other expenses of representation) related to the substitute check.

(2) The amount of damages any person receives under paragraph (1), if any, shall be reduced by the amount, if any, that the claimant receives and retains as a recredit under section 7 or 8.

(b) *Comparative negligence.*

(1) If a person incurs damages that resulted in whole or in part from the negligence or failure of that person to act in good faith, then the amount of any liability due to that person under subsection (a) shall be reduced in proportion to the amount of negligence or bad faith attributable to that person.

(2) Nothing in this subsection reduces the rights of a consumer or any other person under the Uniform Commercial Code or other applicable provision of Federal or State law.

[12 USC 5009.]

9-737.5

SECTION 11—Statute of Limitations and Notice of Claim

(a) *Actions under this Act.*

(1) An action to enforce a claim under this Act may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the cause of action accrues.

(2) A cause of action accrues as of the date the injured party first learns, or by which such person reasonably should have learned, of the facts and circumstances giving rise to the cause of action.

(b) *Discharge of claims.* Except as provided in subsection (c), unless a person gives notice of a claim to the indemnifying or warranting bank within 30 days after the person has reason to know of the claim and the identity of the indemnifying or warranting bank, the indemnifying or warranting bank is discharged from liability in an action to enforce a claim

under this Act to the extent of any loss caused by the delay in giving notice of the claim.

(c) *Notice of claim by consumer.* A timely claim by a consumer under section 7 for expedited recredit constitutes timely notice of a claim by the consumer for purposes of subsection (b).

[12 USC 5010.]

9-737.6

SECTION 12—Consumer Awareness

(a) *In general.* Each bank shall provide, in accordance with subsection (b), a brief notice about substitute checks that describes—

(1) how a substitute check is the legal equivalent of an original check for all purposes, including any provision of any Federal or State law, and for all persons, if the substitute check—

(A) accurately represents all of the information on the front and back of the original check as of the time at which the original check was truncated; and

(B) bears the legend: “This is a legal copy of your check. You can use it in the same way you would use the original check.”; and

(2) the consumer recredit rights established under section 7 when a consumer believes in good faith that a substitute check was not properly charged to the account of the consumer.

(b) *Distribution.*

(1) With respect to consumers who are customers of a bank on the effective date of this Act and who receive original checks or substitute checks, a bank shall provide the notice described in subsection (a) to each such consumer no later than the first regularly scheduled communication with the consumer after the effective date of this Act.

(2) A bank shall provide the notice described in subsection (a) to each consumer who will receive original checks or substitute checks, other than existing customers referred to in paragraph (1), at the time at which the customer relationship is initiated.

(3) A bank may send the notices required

by this subsection by United States mail or by any other means through which the consumer has agreed to receive account information.

(4) Notice shall be provided to each consumer of the bank that requests a copy of a check and receives a substitute check, at the time of the request.

9-737.7

(c) *Model language.*

(1) Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board shall publish model forms and clauses that a bank may use to describe each of the elements required by subsection (a).

(2) (A) A bank shall be treated as being in compliance with the requirements of subsection (a) if the bank’s substitute check notice uses a model form or clause published by the Board and such model form or clause accurately describes the bank’s policies and practices.

(B) A bank may delete any information in the model form or clause that is not required by this Act or rearrange the format.

(3) This section shall not be construed as requiring any bank to use a model form or clause that the Board prepares under this subsection.

[12 USC 5011.]

9-738

SECTION 13—Effect on Other Law

This Act shall supersede any provision of Federal or State law, including the Uniform Commercial Code, that is inconsistent with this Act, but only to the extent of the inconsistency.

[12 USC 5012.]

SECTION 14—Variation by Agreement

(a) *Section 8.* Any provision of section 8 may be varied by agreement of the banks involved.

(b) *No other provisions may be varied.* Except as provided in subsection (a), no provi-

sion of this Act may be varied by agreement of any person or persons.

[12 USC 5013.]

SECTION 15—Regulations

The Board may prescribe such regulations as the Board determines to be necessary to implement, prevent circumvention or evasion of, or facilitate compliance with the provisions of this Act.

[12 USC 5014.]

9-738.5

SECTION 16—Study and Report on Funds Availability

(a) *Study.* In order to evaluate the implementation and the impact of this Act, the Board shall conduct a study of—

- (1) the percentage of total checks cleared in which the paper check is not returned to the paying bank;
- (2) the extent to which banks make funds available to consumers for local and nonlocal checks prior to the expiration of maximum hold periods;
- (3) the length of time within which depository banks learn of the nonpayment of local and nonlocal checks;
- (4) the increase or decrease in check-related losses over the study period; and
- (5) the appropriateness of the time periods and amount limits applicable under sections 603 and 604 of the Expedited Funds Availability Act, as in effect on the date of enactment of this Act.

(b) *Report to Congress.* Before the end of the 30-month period beginning on the effective date of this Act, the Board shall submit a report to the Congress containing the results of the study conducted under this section, together with recommendations for legislative action.

[12 USC 5015.]

9-738.6

SECTION 17—Statistical Reporting of Costs and Revenues for Transporting Checks Between Reserve Banks

In the annual report prepared by the Board for the first full calendar year after the date of

enactment of this Act and in each of the 9 subsequent annual reports by the Board, the Board shall include the amount of operating costs attributable to, and an estimate of the Federal Reserve banks' imputed revenues derived from, the transportation of commercial checks between Federal Reserve bank check processing centers.

[12 USC 5016.]

9-738.7

SECTION 18—Evaluation and Report by the Comptroller General

(a) *Study.* During the 5-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall evaluate the implementation and administration of this Act, including—

- (1) an estimate of the gains in economic efficiency made possible from check truncation;
- (2) an evaluation of the benefits accruing to consumers and financial institutions from reduced transportation costs, longer hours for accepting deposits for credit within 1 business day, the impact of fraud losses, and an estimate of consumers' share of the total benefits derived from this Act; and
- (3) an assessment of consumer acceptance of the check truncation process resulting from this Act, as well as any new costs incurred by consumers who had their original checks returned with their regular monthly statements prior to the date of enactment of this Act.

(b) *Report to Congress.* Before the end of the 5-year period referred to in subsection (a), the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the evaluation conducted pursuant to subsection (a), together with such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

[12 USC 5017.]

9-739

SECTION 19—Depositary Services Efficiency and Cost Reduction

(a) *Findings.* The Congress finds as follows:

(1) The Secretary of the Treasury has long compensated financial institutions for various critical depository and financial agency services provided for or on behalf of the United States by—

(A) placing large balances, commonly referred to as “compensating balances”, on deposit at such institutions; and

(B) using imputed interest on such funds to offset charges for the various depository and financial agency services provided to or on behalf of the Government.

(2) As a result of sharp declines in interest rates over the last few years to record low levels, or the public debt outstanding reaching the statutory debt limit, the Department of the Treasury often has had to dramatically increase or decrease the size of the compensating balances on deposit at these financial institutions.

(3) The fluctuation of the compensating balances, and the necessary pledging of collateral by financial institutions to secure the value of compensating balances placed with those institutions, have created unintended financial uncertainty for the Secretary of the Treasury and for the management by financial institutions of their cash and securities.

(4) It is imperative that the process for providing financial services to the Government be transparent, and provide the information necessary for the Congress to effectively exercise its appropriation and oversight responsibilities.

(5) The use of direct payment for services rendered would strengthen cash and debt management responsibilities of the Secretary of the Treasury because the Secretary would no longer need to dramatically increase or decrease the level of such balances when interest rates fluctuate sharply or when the public debt outstanding reaches the statutory debt limit.

(6) An alternative to the use of compensating balances, such as direct payments to financial institutions, would ensure that payments to financial institutions for the services they provide would be made in a more predictable manner and could result in cost savings.

(7) Limiting the use of compensating balances could result in a more direct and

cost-efficient method of obtaining those services currently provided under compensating balance arrangements.

(8) A transition from the use of compensating balances to another compensation method must be carefully managed to prevent higher-than-necessary transitional costs and enable participating financial institutions to modify their planned investment of cash and securities.

9-739.1

(b) *Authorization of appropriations for services rendered by depositories and financial agencies of the United States.* There are authorized to be appropriated for fiscal years beginning after fiscal year 2003 to the Secretary of the Treasury such sums as may be necessary for reimbursing financial institutions in their capacity as depositories and financial agents of the United States for all services required or directed by the Secretary of the Treasury, or a designee of the Secretary, to be performed by such financial institutions on behalf of the Secretary of the Treasury or another Federal agency, including services rendered before fiscal year 2004.

9-739.2

(c) *Orderly transition.*

(1) As appropriations authorized in subsection (b) become available, the Secretary of the Treasury shall promptly begin the process of phasing in the use of the appropriations to pay financial institutions serving as depositories and financial agents of the United States, and transitioning from the use of compensating balances to fund these services.

(2) (A) Following the transition to the use of the appropriations authorized in subsection (b), the Secretary of the Treasury may use the compensating balances to pay financial institutions serving as depositories and financial agents of the United States only in extraordinary situations where the Secretary determines that they are needed to ensure the fiscal operations of the Government continue to function in an efficient and effective manner.

(B) Any use of compensating balances pursuant to subparagraph (A) shall promptly be reported by the Secretary of the Treasury to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(3) In transitioning to the use of the appropriations authorized in subsection (b), the Secretary of the Treasury shall take such steps as may be appropriate to—

(A) prevent abrupt financial disruption to the functions of the Department of the Treasury or to the participating financial institutions; and

(B) maintain adequate accounting and management controls to ensure that payments to financial institutions for their banking services provided to the Government as depositaries and financial agents are accurate and that the arrangements last no longer than is necessary.

(4) (A)

(i) For each fiscal year, the Secretary of the Treasury shall submit a report to the Congress on the use of compensating balances and on the use of appropriations authorized in subsection (b) during that fiscal year.

(ii) The report required under clause (i) may be submitted as part of the budget submitted by the President under section 1105 of title 31, United States Code, for the following fiscal year and if so, the report shall be submitted concurrently to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) (i) Following completion of the tran-

sition from the use of compensating balances to the use of the appropriations authorized in subsection (b) to pay financial institutions for their services as depositaries and financial agents of the United States, the Secretary of the Treasury shall submit a report on the transition to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(ii) The report submitted under clause (i) shall include a detailed analysis of—

(I) the cost of transition;

(II) the direct costs of the services being paid from the appropriations authorized in subsection (b); and

(III) the benefits realized from the use of direct payment for such services, rather than the use of compensating balance arrangements.

(d) *Technical amendment.* * * *

(e) *Effective date.* Notwithstanding section 20, this section shall take effect on the date of the enactment of this Act.

[12 USC 5018.]

9-739.3

SECTION 20—Effective Date

This Act shall take effect at the end of the 12-month period beginning on the date of the enactment of this Act, except as otherwise specifically provided in this Act.

[12 USC 5001 note.]

Statutory Authority for Regulation J

9-830

FEDERAL RESERVE ACT

SECTION 13—Powers of Federal Reserve Banks

Any Federal reserve bank may receive from any of its member banks or other depository institutions, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation, or other items and also, for collection, maturing notes and bills; or solely for purposes of exchange or of collection, may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district, or other items, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company or other depository institution deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation or other items, or maturing notes and bills: *Provided*, Such nonmember bank or trust company or other depository institution maintains with the Federal reserve bank of its district a balance in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve Bank, and other factors as the Board may deem appropriate; *Provided further*, That nothing in this or any other section of this Act shall be construed as prohibiting a member or nonmember bank or other depository institution from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal reserve banks.

[12 USC 342. As amended by act of Sept. 7, 1916 (39 Stat. 752); June 21, 1917 (40 Stat 234); and March 31, 1980 (94 Stat. 139).]

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9-831

SECTION 16—Note Issues

* * * * *

Every Federal reserve bank shall receive on deposit at par from depository institutions or from Federal Reserve banks checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn upon any of its depositors, and when remitted by a Federal reserve bank, checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn by any depositor in any other Federal reserve bank or depository institution upon funds to the credit of said depositor in said reserve bank or depository institution. Nothing herein contained shall be construed as prohibiting a depository institution from charging its actual expense incurred in collecting and remitting funds, or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall, by rule, fix the charges to be collected by the member banks from its patrons whose checks and other items, including negotiable orders of withdrawal and share drafts are cleared through the Federal reserve bank and the charge which may be imposed for the service of clearing or collection rendered by the Federal reserve bank.

[12 USC 360. As amended by act of March 31, 1980 (94 Stat. 140).]

9-832

The Board of Governors of the Federal Reserve System shall make and promulgate from time to time regulations governing the transfer of funds and charges therefor among Federal reserve banks and their branches, and may at its discretion exercise the functions of a clearing house for such Federal reserve banks, or may designate a Federal reserve bank to exercise such functions, and may also require each

such bank to exercise the functions of a clearing house for depository institutions.

[12 USC 248(o). As amended by act of March 31, 1980 (94 Stat. 140).]

9-833

SECTION 11—Powers of Board of Governors of Federal Reserve System

* * * * *

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

* * * * *

(i) To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or services specified in this Act, and make all rules and regulations necessary to enable said board effectively to perform the same.

[12 USC 248(i).]

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9-834

SECTION 14—Open Market Operations

* * * * *

Every Federal reserve bank shall have power:

* * * * *

(e) To establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Board of Governors of the Federal Reserve System and under regulations to be prescribed by said board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Board of Governors of the Federal

Reserve System, to open and maintain banking accounts for such foreign correspondents or agencies, or for foreign banks or bankers, or for foreign states as defined in section 25(b) of this Act. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Board of Governors of the Federal Reserve System, any other Federal reserve bank may, with the consent and approval of the Board of Governors of the Federal Reserve System, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board.

[12 USC 358. As amended by acts of Sept. 7, 1916 (39 Stat. 754); June 21, 1917 (40 Stat. 235); and April 7, 1941 (55 Stat. 131).]

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9-835

SECTION 25B*—Jurisdiction of Suits

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For the purposes of this section, * * * (2) the term “foreign state” includes any foreign government, or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any such foreign government or of any such organization or subdivision; (3) the term “central bank” includes any foreign bank or banker authorized to perform any one or more of the functions of a central bank; * * *

[12 USC 632. As added by act of April 7, 1941 (55 Stat. 132).]

EXPEDITED FUNDS AVAILABILITY ACT

See 9-675.

CHECK CLEARING FOR THE 21ST CENTURY ACT

See 9-732.

* Previously designated section 25(b), this section was redesignated by act of Dec. 19, 1991 (105 Stat. 2281).

<p style="text-align: right;">9-836</p> <p>BRETTON WOODS AGREEMENTS ACT</p> <p>SECTION 6—Federal Reserve Banks as Depositories</p> <p>Any Federal Reserve bank which is requested to do so by the Fund or the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 286d.]</p>	<p>Any Federal Reserve bank which is requested to do so by the Corporation shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 282d.]</p>
<p style="text-align: right;">9-837</p> <p>INTER-AMERICAN DEVELOPMENT BANK ACT</p> <p>SECTION 6—Federal Reserve Banks as Depositories</p> <p>Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 283d.]</p>	<p style="text-align: right;">9-840</p> <p>ASIAN DEVELOPMENT BANK ACT</p> <p>SECTION 6—Federal Reserve Banks as Depositories</p> <p>Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 285d.]</p>
<p style="text-align: right;">9-838</p> <p>INTERNATIONAL DEVELOPMENT ASSOCIATION ACT</p> <p>SECTION 6—Federal Reserve Banks as Depositories</p> <p>Any Federal Reserve bank which is requested to do so by the Association shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 284d.]</p>	<p style="text-align: right;">9-840.1</p> <p>AFRICAN DEVELOPMENT FUND ACT</p> <p>SECTION 207—Federal Reserve Banks as Depository for the Fund</p> <p>Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 290g-5.]</p>
<p style="text-align: right;">9-839</p> <p>INTERNATIONAL FINANCE CORPORATION ACT</p> <p>SECTION 6—Federal Reserve Banks as Depositories</p>	<p style="text-align: right;">9-840.2</p> <p>AFRICAN DEVELOPMENT BANK ACT</p> <p>SECTION 1337—Federal Reserve Banks as Depositories</p> <p>Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.</p> <p>[22 USC 290i-5.]</p>