

§ 229.17

(ii) *Timing of notice.* The notice shall be provided to the depositor at the time of the deposit, unless the deposit is not made in person to an employee of the depository bank or the decision to extend the time when the deposited funds will be available is made after the time of the deposit. If notice is not given at the time of the deposit, the depository bank shall mail or deliver the notice to the customer not later than the first business day following the banking day the deposit is made.

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

(i) The overdraft or return of the check or other debit would not have occurred except for the fact that the deposited funds were delayed under paragraph (c)(1) of this section; and

(ii) The deposited check was paid by the paying bank.

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

(d) *Credit union notice of interest payment policy.* If a bank described in § 229.2(e)(4) begins to accrue interest or dividends on all deposits made in an interest-bearing account, including cash deposits, at a later time than the day specified in § 229.14(a), the bank's specific policy disclosures shall contain an explanation of when interest or divi-

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dends on deposited funds begin to accrue.

[53 FR 19433, May 27, 1988, as amended at 53 FR 31292, Aug. 18, 1988; 53 FR 44324, Nov. 2, 1988; Reg. CC, 54 FR 13850, Apr. 6, 1989; 60 FR 51671, Oct. 3, 1995; Reg. CC, 62 FR 13810, Mar. 24, 1997]

§ 229.17 Initial disclosures.

Before opening a new account, a bank shall provide a potential customer with the applicable specific availability policy disclosure described in § 229.16.

[Reg. CC, 60 FR 51671, Oct. 3, 1995]

§ 229.18 Additional disclosure requirements.

(a) *Deposit slips.* A bank shall include on all preprinted deposit slips furnished to its customers a notice that deposits may not be available for immediate withdrawal.

(b) *Locations where employees accept consumer deposits.* A bank shall post in a conspicuous place in each location where its employees receive deposits to consumer accounts a notice that sets forth the time periods applicable to the availability of funds deposited in a consumer account.

(c) *Automated teller machines.* (1) A depository bank shall post or provide a notice at each ATM location that funds deposited in the ATM may not be available for immediate withdrawal.

(2) A depository bank that operates an off-premises ATM from which deposits are removed not more than two times each week, as described in § 229.19(a)(4), shall disclose at or on the ATM the days on which deposits made at the ATM will be considered received.

(d) *Upon request.* A bank shall provide to any person, upon oral or written request, a notice containing the applicable specific availability policy disclosure described in § 229.16.

(e) *Changes in policy.* A bank shall send a notice to holders of consumer accounts at least 30 days before implementing a change to the bank's availability policy regarding such accounts, except that a change that expedites the availability of funds may be disclosed

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not later than 30 days after implementation.

§ 229.19 Miscellaneous.

(a) *When funds are considered deposited.* For the purposes of this subpart—

(1) Funds deposited at a staffed facility, ATM, or contractual branch are considered deposited when they are received at the staffed facility, ATM, or contractual branch;

(2) Funds mailed to the depository bank are considered deposited on the day they are received by the depository bank;

(3) Funds deposited to a night depository, lock box, or similar facility are considered deposited on the day on which the deposit is removed from such facility and is available for processing by the depository bank;

(4) Funds deposited at an ATM that is not on, or within 50 feet of, the premises of the depository bank are considered deposited on the day the funds are removed from the ATM, if funds normally are removed from the ATM not more than two times each week; and

(5) Funds may be considered deposited on the next banking day, in the case of funds that are deposited—

(i) On a day that is not a banking day for the depository bank; or

(ii) After a cut-off hour set by the depository bank for the receipt of deposits of 2:00 p.m. or later, or, for the receipt of deposits at ATMs, contractual branches, or off-premise facilities, of 12:00 noon or later. Different cut-off hours later than these times may be established for the receipt of different types of deposits, or receipt of deposits at different locations.

(b) *Availability at start of business day.* Except as otherwise provided in § 229.12(d), if any provision of this subpart requires that funds be made available for withdrawal on any business day, the funds shall be available for withdrawal by the later of:

(1) 9:00 a.m. (local time of the depository bank); or

(2) The time the depository bank's teller facilities (including ATMs) are available for customer account withdrawals.

(c) *Effect on policies of depository bank.* This part does not—

(1) Prohibit a depository bank from making funds available to a customer for withdrawal in a shorter period of time than the time required by this subpart;

(2) Affect a depository bank's right—

(i) To accept or reject a check for deposit;

(ii) To revoke any settlement made by the depository bank with respect to a check accepted by the bank for deposit, to charge back the customer's account for the amount of a check based on the return of the check or receipt of a notice of nonpayment of the check, or to claim a refund of such credit; and

(iii) To charge back funds made available to its customer for an electronic payment for which the bank has not received payment in actually and finally collected funds;

(3) Require a depository bank to open or otherwise to make its facilities available for customer transactions on a given business day; or

(4) Supersede any policy of a depository bank that limits the amount of cash a customer may withdraw from its account on any one day, if that policy—

(i) Is not dependent on the time the funds have been deposited in the account, as long as the funds have been on deposit for the time period specified in §§ 229.10, 229.12, or 229.13; and

(ii) In the case of withdrawals made in person to an employee of the depository bank—

(A) Is applied without discrimination to all customers of the bank; and

(B) Is related to security, operating, or bonding requirements of the depository bank.

(d) *Use of calculated availability.* A depository bank may provide availability to its nonconsumer accounts based on a sample of checks that represents the average composition of the customer's deposits, if the terms for availability based on the sample are equivalent to or more prompt than the availability requirements of this subpart.

(e) *Holds on other funds.* (1) A depository bank that receives a check for deposit in an account may not place a hold on any funds of the customer at the bank, where—