

§ 229.57

(2) *Offset of recredits.* The amount of damages a person receives under paragraph (a)(1) of this section shall be reduced by any amount that the person receives and retains as a recredit under § 229.54 or § 229.55.

(3) *Comparative negligence.* (i) If a person incurs damages that resulted in whole or in part from that person's negligence or failure to act in good faith, then the amount of any damages due to that person under paragraph (a)(1) of this section shall be reduced in proportion to the amount of negligence or bad faith attributable to that person.

(ii) Nothing in this paragraph (a)(3) reduces the rights of a consumer or any other person under the U.C.C. or other applicable provision of federal or state law.

(b) *Timeliness of action.* Delay by a bank beyond any time limits prescribed or permitted by this subpart is 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 the bank and if the bank uses such diligence as the circumstances require.

(c) *Jurisdiction.* A person may bring an action to enforce a claim under this subpart in any United States district court or in any other court of competent jurisdiction. Such claim shall be brought within one year of the date on which the person's cause of action accrues. For purposes of this paragraph, a cause of action accrues as of the date on which the injured person first learns, or by which such person reasonably should have learned, of the facts and circumstances giving rise to the cause of action, including the identity of the warranting or indemnifying bank against which the action is brought.

(d) *Notice of claims.* Except as otherwise provided in this paragraph (d), unless a person gives notice of a claim under this section to the warranting or indemnifying bank within 30 calendar days after the person has reason to know of both the claim and the identity of the warranting or indemnifying bank, the warranting or indemnifying bank is discharged from liability in an

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action to enforce a claim under this subpart to the extent of any loss caused by the delay in giving notice of the claim. A timely recredit claim by a consumer under § 229.54 constitutes timely notice under this paragraph.

§ 229.57 Consumer awareness.

(a) *General disclosure requirement and content.* Each bank shall provide, in accordance with paragraph (b) of this section, a brief disclosure to each of its consumer customers that describes—

(1) That a substitute check is the legal equivalent of an original check; and

(2) The consumer recredit rights that apply when a consumer in good faith believes that a substitute check was not properly charged to his or her account.

(b) *Distribution—*(1) *Disclosure to consumers who receive paid checks with periodic account statements.* A bank shall provide the disclosure described in paragraph (a) of this section to a consumer customer who receives paid original checks or paid substitute checks with his or her periodic account statement—

(i) No later than the first regularly scheduled communication with the consumer after October 28, 2004, for each consumer who is a customer of the bank on that date; and

(ii) At the time the customer relationship is initiated, for each customer relationship established after October 28, 2004.

(2) *Disclosure to consumers who receive substitute checks on an occasional basis.*

(i) The bank shall provide the disclosure described in paragraph (a) of this section to a consumer customer of the bank who requests an original check or a copy of a check and receives a substitute check. If feasible, the bank shall provide this disclosure at the time of the consumer's request; otherwise, the bank shall provide this disclosure no later than the time at which the bank provides a substitute check in response to the consumer's request.

(ii) The bank shall provide the disclosure described in paragraph (a) of this section to a consumer customer of the bank who receives a returned substitute check, at the time the bank provides such substitute check.

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(3) *Multiple account holders.* A bank need not give separate disclosures to each customer on a jointly held account.

§ 229.58 Mode of delivery of information.

A bank may deliver any notice or other information that it is required to provide under this subpart by United States mail or by any other means through which the recipient has agreed to receive account information. If a bank is required to provide an original check or a sufficient copy, the bank instead may provide an electronic image of the original check or sufficient copy if the recipient has agreed to receive that information electronically.

§ 229.59 Relation to other law.

The Check 21 Act and this subpart supersede any provision of federal or state law, including the Uniform Commercial Code, that is inconsistent with the Check 21 Act or this subpart, but only to the extent of the inconsistency.

§ 229.60 Variation by agreement.

Any provision of § 229.55 may be varied by agreement of the banks involved. No other provision of this subpart may be varied by agreement by any person or persons.

APPENDIX A TO PART 229—ROUTING NUMBER GUIDE TO NEXT-DAY AVAILABILITY CHECKS AND LOCAL CHECKS

A. Each bank is assigned a routing number by an agent of the American Bankers Association. The routing number takes two forms: a fractional form and a nine-digit form. A paying bank generally is identified on the face of a check by its routing number in both the fractional form (which generally appears in the upper right-hand corner of the check) and the nine-digit form (which is printed in magnetic ink along the bottom of the check). Where a check is payable by one bank but payable through another bank, the routing number appearing on the check is that of the payable-through bank, not the payor bank.

B. The first four digits of the nine-digit routing number (and the denominator of the fractional routing number) form the "Federal Reserve routing symbol," and the first two digits of the routing number identify the Federal Reserve District in which the bank is located. Thus, 01 will be the first two digits of the routing number of a bank in the

First Federal Reserve District (Boston), and 12 will be the first two digits of the routing number of a bank in the Twelfth District (San Francisco). Adding 2 to the first digit denotes a thrift institution. Thus, 21 identifies a thrift in the First District, and 32 denotes a thrift in the Twelfth District.

C. Each Federal Reserve check processing office is listed below, followed by the Federal Reserve routing symbols of the banks that are located within the check-processing region served by that office. Because some check processing regions cross Federal Reserve District lines, there are some cases in which banks in different Federal Reserve Districts are located in the same check-processing region and therefore considered local to each other. For example, banks in Fairfield County, Connecticut are located in Second District and have Second District routing numbers (0211 or 2211), but the Windsor Locks office of the First District processes the checks of these banks. Thus, as indicated below, checks drawn on banks with 0211 or 2211 routing numbers would be local for First District banks served by the Windsor Locks office but would be nonlocal for other Second District depositary banks.

FIRST FEDERAL RESERVE DISTRICT
[Federal Reserve Bank of Boston]

<i>Head Office</i>	
0110 ¹	2110 ²
0112	2112
0113	2113
0114	2114
0115	2115

<i>Windsor Locks Office</i>	
0111	2111
0116	2116
0117	2117
0118	2118
0119	2119
0211 ³	2211 ³

¹The first two digits identify the Federal Reserve District. Thus 01 identifies the First Federal Reserve District (Boston), and 12 identifies the Twelfth District (San Francisco).

²Adding 2 to the first digit denotes a thrift institution. Thus 21 identifies a thrift in the First District, and 32 denotes a thrift in the Twelfth District.

³Banks in Fairfield County, Connecticut are members of the Federal Reserve Bank of New York and therefore have Second District routing numbers. Their checks, however, are processed by the Windsor Locks office. Thus, checks drawn on banks with 0211 or 2211 routing numbers would not be local checks for Second District depositary banks.