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| **July 2016** |
| Dear CU PolicyPro Client,  Last month we talked about the changes FinCEN made related to [customer due diligence](https://www.gpo.gov/fdsys/pkg/FR-2016-05-11/pdf/2016-10567.pdf) requirements for legal entity members that became effective on July 11, 2016.  However, just recently, FinCEN published some [Frequently Asked Questions](https://www.fincen.gov/statutes_regs/guidance/pdf/FAQs_for_CDD_Final_Rule_(7_15_16).pdf), which might be helpful for credit unions looking to implement this new rule.  **In this edition:**   * Monthly OPS Notes Release: Regulation CC – Expedited Funds Availability * Content FAQ * Technical FAQ * Questions? |
| Regulation CC – Expedited Funds Availability |
| In our most recent quarterly update and release, we combined two policies in PolicyPro (2400 – Funds Availability and 9410 – Expedited Funds Availability Act – Regulation CC).  Based on this consolidation and the potential for revisions from the Federal Reserve in the near future, we believe this would be a good time to review this policy and associated requirements.  **Accounts**  Credit unions should be reminded that Regulation CC applies to transaction accounts, not savings accounts.  The Regulation indicates “account generally includes accounts at a bank from which the account holder is permitted to make transfers or withdrawals by negotiable or transferable instrument, payment order of withdrawal, telephone transfer, electronic payment, or other similar means for the purposes of making payments or transfers to third persons or others.”  Therefore, checks deposited in credit union savings accounts are not subject to the same Funds Availability requirements.  **Availability**  Generally speaking, the funds from most checks deposited into the credit union at the teller station must be available to the member by the **next business day**.  Checks deposited via ATMs, foreign ATMs and via the mail are eligible for longer hold periods.  **Exception Holds**  Credit unions may extend holds on check deposits for a limited number of reasons listed below:   1. **New Accounts** – an account is considered a new account during the first 30 calendar days after the account is established (only applies to amounts deposited over $5,000). 2. **Large Deposit** – an aggregate deposit in one day exceeds $5,000. 3. **Re-deposited Checks** – A check has been returned unpaid and re-deposited (unless the check was returned because it was missing an endorsement or post-dated). 4. **Repeated Overdrafts** – Within the last six months, a member’s account has been overdrawn six or more times or overdrawn twice by more than $5,000 for two or more business days. 5. **Reasonable Cause to Doubt Collectability** – The credit union has reasonable cause to believe the check is uncollectible, such as a stale or post-dated check, evidence of kiting or notice of dishonor from the payor financial institution. 6. **Emergency Conditions** – such as telecommunication or computer breakdowns, war, or some other emergency conditions beyond the credit union’s control.   **Notice Requirements**  If the credit union utilizes one of the specific “exception” holds, the credit union must provide the member with notice, at the time the hold is placed (if not received in person, as soon as reasonably practicable – no later than the first business day following the deposit), with the following information:   1. The member’s name and account number 2. The date of deposit. 3. The amount of the deposit that is being delayed. 4. Statement that the credit union is holding funds. 5. What the exception is and why it is being invoked. 6. When the funds will be available for withdrawal. 7. How to obtain a refund of returned check fees or overdraft fees if the notice is not given at the time of the deposit, and the check is paid.   Unfortunately, credit unions are not permitted to utilize much discretion when placing a hold on a check deposit.  Regulation CC provides for only specific exceptions to the next day availability requirements.  If credit unions are placing extended holds on check deposits, they should make sure they are documenting the exception and only holding for the allocated time period.  [Regulation CC Chart – Funds Availability](https://infosight.secure.cusolutionsgroup.net/files/infosight/34973/file/Expedited%20Funds%20Availability-%20Reg%20CC%20-%20CHART%202011--08.pdf) |
| **Content FAQs** |
| **Question:  Our Credit Union has a practice to put an extended hold on any check being deposited if the member does not have the funds in their account to offset that deposit.  How long are we permitted to hold those funds?**  **Answer:** Unfortunately, not having sufficient funds in the account to offset the amount of the check is not a permissible exception to hold the check for an extended period time.  If there aren’t any other possible exceptions (as we listed above), the credit union has to make the first $200 dollars of the check available the next business day and the remaining funds the 2nd business day.  If the check deposit amount is over $5,000 (the first $5,000 is handled in the manner described in the prior sentence), the credit union can hold the amount over $5,000 and make it available on the 7th business day after deposit, in compliance with the large deposit exception.  **Question: Our Credit Union would like to implement a policy that allows for immediate availability for all checks deposited under $500.  Are we permitted to do that under Regulation CC?**  **Answer:** Yes!  There is nothing that would prohibit the credit union from implementing a policy that allowed availability of funds earlier than what is required under Regulation CC.  **Question: Is there an example out there of what should be included in the exception notice that we provide to our members if we are using one of the exception holds?**  **Answer:** Yes!  Within Regulation CC, under [Appendix C](http://www.ecfr.gov/cgi-bin/text-idx?SID=c5e3eb9d193528cd14878485a7d9a403&mc=true&node=ap12.3.229_160.c&rgn=div9), there are model notices, including the exception hold notice. |
| **Technical FAQs** |
| **Question: How can I add my existing policies to the manual?**  **Answer:** To add an existing policy into the Working Manual from Word, the content must be copied/pasted, regardless of whether it is in Word, Excel or PDF.  If the policy does not yet exist in the Working Manual, you must create it first. [Click here for instructions](http://leagueinfosight.com/files/cusg2011/15/file/Pro%20Products/FAQs%20Documents/Adding%20Unique%20Policies%20to%20the%20Working%20Manual.pdf).  To Copy/Paste from Word, we recommend either pasting the content in as plain text or using the “Paste from Word” icon. We recommend watching Segment 3, the “Paste from Word” tutorial in the [New User training video series](http://leagueinfosight.com/Training) for best practices for pasting from Word into CU PolicyPro.  Documents can also be uploaded in the storage area, however, they will not be part of the Working manual.  PDFs generally will lose most formatting when copied/pasted. Contact support at [policysupport@cusolutionsgroup.com](mailto:policysupport@cusolutionsgroup.com) for assistance if you have PDF content to be added to the Working Manual.  Excel files can be copied/pasted to the Working Manual, however, there can be formatting issues, especially for a wide spreadsheet. We recommend contacting support at [policysupport@cusolutionsgroup.com](mailto:policysupport@cusolutionsgroup.com) for assistance if you have Excel content to be added to the Working Manual. |
| **Questions?** |
| If this information was forwarded to you, and you'd like to be on the distribution list to receive information and updates related to CU PolicyPro, or if you have any questions regarding the CU PolicyPro content, or questions on how to use the system, please contact [policysupport@cusolutionsgroup.com](mailto:policysupport@cusolutionsgroup.com).  Thanks and have a great weekend! |