



Compliance Factor Description

Area Name : Accounts	Item Name : Expedited Funds Availability (Regulation CC)
Factors List :	
Factors Name	Factors Description
New Account Availability Disclosure	<ol style="list-style-type: none"> 1. Potential members are provided with a specific availability policy disclosure prior to opening an account and the credit union uses the model disclosure (or something similar) from Appendix C of the regulation. 2. The credit union’s availability disclosure contains the following (as applicable): <ol style="list-style-type: none"> a. Summary of the credit union’s availability policy; b. Description of any categories of deposits or checks used by the credit union when it delays availability; how to determine the category to which a particular deposit or check belongs; and when each category will be available for withdrawal (including a description of the credit union’s business days and when a deposit is considered received); c. A description of any of the exceptions that may be invoked by the credit union, including the time following a deposit that funds generally will be available for withdrawal and a statement that the credit union will notify the member if an exception is used; d. A description of any case-by-case policy of delaying availability that may result in deposited funds being available for withdrawal later than the time periods stated in the credit union’s availability policy; and e. A description of how the member can differentiate between a proprietary and nonproprietary ATM, if the credit union makes funds from deposits at nonproprietary ATMs available for withdrawal later than funds from deposits at proprietary ATMs. [229.16]
Requesting an Account Availability Disclosure	The credit union provides a copy of its specific availability policy disclosure to any person, upon oral or written request. [229.18(d)]
Notice of Case-by-Case Holds	<ol style="list-style-type: none"> 1. If the credit union has a policy of making deposited funds available for withdrawal sooner than required by the regulation, they may extend the time when funds are available up to the time periods allowed, provided the credit union includes in its disclosure:

	<ul style="list-style-type: none"> a. A statement that the time when deposited funds are available for withdrawal may be extended in some cases, and the latest time following a deposit that funds will be available for withdrawal; b. A statement that the credit union will notify the member if funds deposited will not be available for withdrawal until later than the time periods stated in the credit union’s availability policy; and c. A statement that members should ask if they need to be sure about when a particular deposit will be available for withdrawal. [229.16]
Notice of Exception Hold	<ul style="list-style-type: none"> 1. When the credit union extends the time when funds will be available for withdrawal based on the application of a specific exception, it provides the depositor with a written notice (similar to the model form in Appendix C of the regulation). (These exceptions include large deposits, redeposited checks, repeated overdrafts, reasonable cause to doubt collectability, and emergency conditions.) 2. When the credit union extends the time when funds will be available for withdrawal on a case-by-case basis (including large deposits, redeposited checks, repeated overdrafts, reasonable cause to doubt collectability, and emergency conditions), written notice is provided that includes: <ul style="list-style-type: none"> a. A number or code that identifies the member’s account; b. The date of deposit; c. The amount of deposit that is being delayed; and d. The day the funds will be available for withdrawal. 3. The notice for a case-by-case hold is provided to the member at the time of the deposit, unless the deposit is not made in person or the decision to extend the time is made after the time of deposit. If notice is not provided at the time of deposit, the credit union mails or delivers the notice to the member not later than the first business day following the banking day the deposit was made. [229.16 and 229.13]
Availability of Deposits	<p>The credit union has procedures in place to ensure deposits are made available to members in accordance with regulation. At a minimum, the credit union complies with the following schedule [229.10]:</p> <ul style="list-style-type: none"> 1. Same Day Availability – cash and federal government payments made by ACH, such as social security payments. 2. Next Day Availability – the following funds are made available by the next business day: <ul style="list-style-type: none"> a. Cash deposits, if made in person to an employee of the credit union.

- b. Electronic payments when the credit union has received both the payment and collected funds and is provided with the information on the account and amount to be credited.
- c. US Treasury checks deposited in to the payee's account.
- d. The following checks, if deposited in person, at the teller station and in the payee's account:
 - i. U.S. Postal Service Money Orders;
 - ii. Federal Reserve Bank/Federal home Loan Bank checks;
 - iii. State and local government checks (if the credit union is in the same state as the government entity that issued the check);
 - iv. Cashier's, certified, or teller's checks; and
 - v. "On us" checks (checks drawn on the credit union).
- e. For other checks not described above, the lesser of \$200 or the aggregate amount of checks must be made available (with exceptions). [229.10]

3. Second Day Availability – funds not deposited in person (i.e., through mail or ATM owned by the credit union) or deposited into an account other than the named payee:

- a. Cash;
- b. U.S. Postal Service Money Orders;
- c. Federal Reserve Bank/Federal home Loan Bank checks;
- d. State and local government checks (if the credit union is in the same state as the government entity that issued the check);
- e. Cashier's, certified, or teller's checks; and
- f. US Treasury checks.

The credit union's procedures also document the maximum holds for each type of exception hold [229.13]:

- 1. New Accounts (the first 30 days after an account is established) – certain restrictions may be imposed that only allow next day availability of the first \$5,000 for US Treasury checks, Federal Reserve Bank checks, Federal Home Loan Bank checks, state and local government issued checks, cashier's checks, certified checks, and teller checks. The remaining funds may be held for up to the 9th business day. For other checks not listed, the availability schedule does not apply, including the requirement of the first \$200 to be made available for withdrawal on the next business day.

	<ol style="list-style-type: none"> 2. Large Deposits - Checks that aggregate over \$5,000. The first \$200 is made available the next business day, with \$4,800 available the 2nd business day. The remainder of funds can be held up to 7 business days. On-us checks should provide the first \$200 the next business day, with the remainder made available on the 2nd business day. 3. Re-deposited Checks – Checks returned unpaid once already can be held up to 7 business days. For on-us checks, funds must be available on the 2nd business day. 4. Repeated Overdrafts – Account or combination of accounts overdrawn 6 or more business days in 6 months can be held up to 7 business days. For on-us checks, funds must be available on the 2nd business day. 5. Reasonable Cause to Doubt Collectability – Reasonable cause to believe a check is uncollectible can be held up to 7 business days. For on-us checks, funds must be available on the 2nd business day. 6. Emergency Conditions – An interruption of communications, suspension of payments by another bank, war or another emergency condition beyond the control of the credit union. For on-us checks, funds must be available on the 2nd business day.
<p>Deposit Slip Notice</p>	<p>A notice is included on all pre-printed deposit slips (those with the member’s account number and name provided by the credit union) furnished to members which provides that deposits may not be available for immediate withdrawal. [229.18(a)]</p>
<p>Lobby Notice</p>	<p>The credit union posts a notice in a conspicuous place in each location where its employees accept deposits to consumer accounts which sets forth the time periods applicable to the availability of funds deposited in a consumer account. The credit union uses the model language in Appendix C of the regulation or something similar. [229.18(b)]</p>
<p>Automated Teller Machine (ATM) Notice</p>	<p>The credit union posts or provides a notice at each ATM location that funds deposited in the ATM may not be available for immediate withdrawal. Credit unions operating an off-premise ATM from which deposits are not removed more than two times each week disclose at or on the ATM the days on which deposits made at the ATM will be considered received. The notice is given before the customer has made a deposit, either on a sign, shown on the screen or included on deposit envelopes provided at the ATM. The credit union uses the model language in Appendix C of the regulation or something similar. [229.18(c)]</p>

Notice of Changes in Policy	The credit union sends notice to holders of consumer accounts at least 30 days prior to implementing a change to its availability policy regarding such accounts, except that a change resulting in expedited availability may be disclosed not later than 30 days after implementation. [229.18(e)]
Paying Credit Union's Responsibility for Returned Checks and Notices of Nonpayment	<p>If the credit union decides not to pay a check, they have procedures in place to:</p> <ol style="list-style-type: none"> 1. Return the check in an expeditious manner (no later than 2:00pm local time of the depository financial institution) on the second business day after the banking day on which the check was presented to the credit union for payment. 2. Provide notice of nonpayment if the check is \$5,000 or more, so that it will be received by the depository financial institution no later than 2:00pm local time, on the second business day following the banking day the check was presented for payment. In addition to the information contained in the check's MICR line, the notice includes the following: <ol style="list-style-type: none"> a. The name of the payee(s); b. The amount; c. The date of the indorsement of the depository financial institution; d. The credit union's name, routing number, and trace or sequence number associated with the indorsement of the depository financial institution; and e. The reason for nonpayment. 3. Indicate on the front of the returned check that it is returned and the reason for return. If it is a substitute check or electronic return check, the credit union indicates the check is a returned check and the reason for return on the check so that it will be retained on any subsequent substitute check. 4. Send written notice of nonpayment for checks unavailable for return, containing the associated requirements, clearly stating that it constitutes a notice in lieu of return. [229.31]
Depository Credit Union's Responsibility for Returned Checks	<ol style="list-style-type: none"> 1. The credit union accepts paper returned checks and paper notices of nonpayment during its banking day: <ol style="list-style-type: none"> a. At their requested location for presentment of checks for forward collection; and b. At a branch, main office, or other location consistent with the name and address of the credit union's indorsement on the check.

	<ol style="list-style-type: none"> 2. The credit union accepts electronic returned checks and notices of nonpayment in accordance with their agreement with the transferor financial institution. 3. The credit union accepts oral notices of nonpayment during its banking day at a telephone number indicated in their indorsement and at any other number identified for receipt of notice of nonpayment. 4. The credit union pays the returning or paying financial institution returning the check for the amount of the check prior to the close of business on the credit union's banking day on which the check is received. The credit union's payment may be made by: <ol style="list-style-type: none"> a. Debit to an account of the credit union on the books of the returning or paying financial institution; b. Cash; c. Wire transfer; or d. Any other form of payment acceptable to the returning or paying financial institution. [229.33]
<p>Notices to the Member</p>	<p>When the depository credit union receives a returned check, notice of nonpayment, or notice of recovery, it provides notice to its member of the facts by midnight on the banking day following the banking day on which it received the returned check or notice. [229.33(h)]</p>
<p>Warranties and Indemnities</p>	<ol style="list-style-type: none"> 1. When the credit union transfers or presents an electronic check or electronic returned check and receives settlement or other consideration, it warrants the following: <ol style="list-style-type: none"> a. The electronic image accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated and the electronic information includes an accurate record of all MICR line information required for a substitute check and the amount of the check; and b. No person will receive a transfer, presentment, or return of, or otherwise be charged for an electronic check or electronic returned check, the original check, a substitute check or a paper or electronic representation of a substitute check such that the person will be asked to make payment based on a check it has already paid.

2. If the credit union transfers or presents a remotely created check and receives a settlement or other consideration, they warrant that the person on whose account the remotely created check is drawn authorized the issuance of the check in the amount and to the payee stated on the check.
3. The credit union transferring a returned check that receives settlement or other consideration, warrants to the transferee returning financial institution, to any subsequent returning financial institution, to the depository financial institution and to the owner of the check that:
 - a. The credit union returned the check within its deadline;
 - b. It's authorized to return the check;
 - c. The check has not been materially altered; and
 - d. For notice in lieu of return, the original check has not and will not be returned.
4. The credit union that provides a notice of nonpayment warrants to the transferee financial institution, to any subsequent transferee financial institution, the depository financial institution and the owner of the check that:
 - a. The credit union returned or will return the check within its deadline;
 - b. It is authorized to send the notice; and
 - c. The check has not been materially altered.
5. In order to limit their losses related to checks deposited via remote deposit capture, the credit union requires the member to include a restrictive indorsement such as "For mobile deposit only at XXX Credit Union." Without a restrictive indorsement, the credit union accepting a check for deposit via remote deposit capture indemnifies a depository financial institution that accepts the original check for deposit for losses incurred to that depository financial institution if the loss is due to the check having already been paid.
6. The credit union transferring or presenting an electronically-created item and receiving a settlement or other consideration shall indemnify each transferee financial institution, any subsequent collecting financial institution, the paying financial institution and any subsequent returning financial institution against losses that result from the fact that:
 - a. The electronic image or electronic information not being derived from a paper check;
 - b. The person on whose account the electronically-created item is drawn did not authorize the issuance of the item in the amount or to the payee stated on the item; or

	<p>c. A person receives a transfer, presentment, or return of, otherwise is charged for an electronically created item, such that the person is asked to make payment based on an item or check it has already paid. [229.34]</p>
<p>Presentment and Issuance of Checks</p>	<ol style="list-style-type: none"> 1. The terms under which the credit union (as the paying financial institution) accepts presentment of an electronic check is governed by their agreement with the presenting financial institution. 2. A paper check is considered received by the credit union (as the paying financial institution) when it is received: <ol style="list-style-type: none"> a. At a location where delivery was requested by the credit union; b. At an address associated with the routing number on the check; c. At any branch or main office if identified on the check by name (without an address); or d. At a branch or main office or other location consistent with the name and address of the credit union on the check if identified on the check by name and address. 3. A paper check is considered presented and the credit union (as the paying financial institution) settles or returns the check, if delivered in accordance with reasonable delivery requirements established by the credit union and demands payment: <ol style="list-style-type: none"> a. At a location designed by the credit union for receipt of paper checks at which they would be considered to have received the paper check by 8:00am on the business day (local time); b. If presentment of a paper check meets the requirements, the credit union is accountable to the presenting financial institution for the amount of the check, unless, by the close of Fedwire on the business day it receives the check it either returns the check or settles with the presenting financial institution for the amount of the check by credit to an account at a Federal Reserve Bank designated by the presenting bank. c. If the credit union closes on a business day and receives presentment of a paper check on that day, the credit union is accountable to the presenting financial institution for the amount of the check, unless by the close of Fedwire on its next banking day it either returns the check or settles with the presenting financial institution by the amount of the check by credit to an account at a Federal Reserve Bank designated by the presenting bank. [229.36]
<p>Substitute Check Disclosures</p>	<ol style="list-style-type: none"> 1. The credit union provides substitute check disclosures:

	<ul style="list-style-type: none"> a. To members when new accounts are opened: b. To members who receive paid checks with their account statements (this requirement would not apply if the credit union provided a document that contained multiple check images per page with the account statement only); or c. When the credit union provides a substitute check to a member in response to the member’s request for a check or check copy or when a substitute check is returned to a member depositor. <p>2. The credit union provides the substitute check disclosure each time it provides a substitute check to a member, regardless of whether the credit union previously provided the disclosure to that member.</p> <p>3. The disclosure provided is similar to the Substitute Check Policy Disclosure in Appendix C-5A of the regulation and describes:</p> <ul style="list-style-type: none"> a. That a substitute check is the legal equivalent of an original check; and b. The member re-credit rights that apply when a member in good faith believes that a substitute check was not properly charged to his or her account. [229.57]
Procedures for Employee Training and Compliance	The credit union establishes and maintains procedures to ensure compliance with the regulation. It also provides the procedures to applicable employees who perform the tasks subject to the requirements of the regulation. [229.19(f)]
Record Retention	The credit union retains evidence of compliance with the regulation for at least two years. This record-retention period may be extended in the event of civil actions and enforcement proceedings brought against the credit union. [229.21(g)]