"permanent" as a modifier of 'availability schedule.'

### **Transitional Provisions**

The Board has removed references to the effective date of § 229.36(e), regarding labeling of payable-through checks. Those references were in the Commentary to §§ 229.2(r) and 229.36(e). Section 229.36(e) became effective on February 1, 1991.

The Board has also removed § 229.17(b) of the regulation and Commentary, as well as a sentence in the Commentary to § 229.18(a), which provided special disclosure rules for accounts in existence on the effective date of the regulation. These provisions are now obsolete.

### Statutory Amendments

The definition of bank in Regulation CC is based on the definition of depository institution in section 19 of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)). Congress, in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA," Pub. L. No. 101-73, Title VII, section 744(i)(2), 103 Stat. 439 (1989)), amended the definition of depository institution. The Board has amended Regulation CC accordingly. In addition, in the Commentary to § 229.2(t), the Board is removing a reference to section 408 of the National Housing Act, which was repealed in FIRREA.

In 1991, the Expedited Funds Availability Act was amended to treat all deposits to nonproprietary automated teller machines as nonlocal (see the Federal Deposit Insurance Corporation Improvement Act, Pub. L. No. 102-242, section 227, 105 Stat. 2236 (1991)). The Board amended Regulation CC and revised the Commentary accordingly (57 FR 36599, Aug. 14, 1992). As published, the revisions to the Commentary to § 229.12(f) contain an error, which the Board has corrected. In addition, the Board has amended the definition of local paying bank in § 229.2(s) and the corresponding Commentary, as well as the Commentary to § 229.10, to reflect this statutory amendment.

The Uniform Commercial Code, section 4-202(b), was amended in 1990 to refer to a bank's duty to exercise ordinary care and timeliness rather than a duty to act "seasonably." The Board has amended the Commentary to §§ 229.2(cc) and 229.31(a) accordingly.

The New Mexico funds availability law was repealed, effective June 16, 1989. The Board is removing the preemption determination for New Mexico in Appendix F.

#### Citations

The Board amended Regulation J (12 CFR part 210, 55 FR 4079, October 5, 1990) effective in 1991, rendering the citation to Regulation J in the Commentary to § 229.10(b) incorrect. In addition, the Commentary to § 229.36(b) contains an incorrect cite in the second sentence. The Board has corrected those Commentary citations, as well as an incorrect citation in § 229.2(11) of the regulation.

Thomson Financial Publishing Inc. now publishes the guide referred to in the Commentary to §§ 229.2(dd), 229.32(a), and 229.36(b) and in Appendix A. The Board has revised those provisions accordingly.

## Commentary Reformat

The Board has revised the Commentary (Appendix E) by numbering each paragraph and adding headings where appropriate. These revisions will provide a consistent format within the Commentary and should make the Commentary easier to use.

### **Public Comment Waiver**

The amendments to Regulation CC and its Commentary are not substantive, but rather remove obsolete provisions, correct minor errors, conform the regulation to statutory changes, and reorganize existing provisions. The Board finds that public comment on these changes is unnecessary and contrary to the public interest. Thus, the Board has determined that there is good cause for not following the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of these amendments.

List of Subjects in 12 CFR Part 229

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 12 CFR Part 229 is amended as set forth below:

## PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

1. The authority citation for Part 229 continues to read as follows:

Authority: 12 U.S.C. 4001 et seq.

2. In § 229.1, paragraph (b)(2) is revised to read as follows:

### § 229.1 Authority and purpose; organization.

(b) \* \* \*

(2) Subpart B of this part contains rules regarding the duty of banks to

make funds deposited into accounts available for withdrawal, including availability schedules. Subpart B of this part also contains rules regarding exceptions to the schedules, disclosure of funds availability policies, payment of interest, liability of banks for failure to comply with Subpart B of this part, and other matters.

3. In § 229.2,

\*

- a. Paragraph (e)(6) is revised;
- b. Paragraph (l) is removed and reserved;
  - c. Paragraph (s) is revised;
- d. Paragraph (y) is removed and reserved; and
- e. Paragraph (ll) is revised. The revisions read as follows:

### § 229.2 Definitions.

(e) \* \* \*

(6) A savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) that is an insured depository institution as defined in section 3 of that Act (12 U.S.C. 1813(c)(2)) or that is eligible to apply to become an insured depository institution under section 5 of that Act (12 U.S.C. 1815); or

(l) [Reserved]

(s) Local paying bank means a paying bank that is located in the same check processing region as the physical location of the branch or proprietary ATM of the depositary bank in which that check was deposited.

\* (y) [Reserved]

(ll) Wire transfer means an unconditional order to a bank to pay a fixed or determinable amount of money to a beneficiary upon receipt or on a day stated in the order, that is transmitted by electronic or other means through Fedwire, the Clearing House Interbank Payments System, other similar network, between banks, or on the books of a bank. Wire transfer does not include an electronic fund transfer as defined in section 903(6) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(6)).

4. In § 229.12, the section heading and paragraph (a) are revised to read as follows:

# § 229.12 Availability schedule.

(a) *Effective date.* The availability schedule contained in this section is effective September 1, 1990.

\*