- Model Specific Policy Disclosure Forms
- C–1 Next-day availability
- C-2 Next-day availability and §229.13 exceptions
- C–3 Next-day availability, case-by-case holds to statutory limits, and § 229.13 exceptions
- C-4 Holds to statutory limits on all deposits (includes chart)
- C–5 Holds to statutory limits on all deposits
- Model Clauses
- C-6 Holds on other funds (check cashing)
- C-7 Holds on other funds (other account)
- C-8 Appendix B availability (nonlocal checks)
- C-9 Automated teller machine deposits (extended hold)
- C-10 Cash withdrawal limitation
- C-11 Credit union interest payment policy

Model Notices

- C-12 Exception hold notice
- C-13 Reasonable cause hold notice
- C-14 One-time notice for large deposit and redeposited check exception holds
- C-15 One-time notice for repeated overdraft exception holds
- C-16 Case-by-case hold notice
- C-17 Notice at locations where employees accept consumer deposits
- C-18 Notice at locations where employees accept consumer deposits (case-by-case holds)
- C–19 Notice at automated teller machines C–20 Notice at automated teller machines
- (delayed receipt)
- C–21 Deposit slip notice
- * * * * *

14. Appendix E to Part 229 is revised to read as follows:

Appendix E to Part 229—Commentary

I. Introduction

A. Background

1. The Board interpretations, which are labeled "Commentary" and follow each section of Regulation CC (12 CFR Part 229), provide background material to explain the Board's intent in adopting a particular part of the regulation; the Commentary also provides examples to aid in understanding how a particular requirement is to work. Under section 611(e) of the Expedited Funds Availability Act (12 U.S.C. 4010(e)), no provision of section 611 imposing any liability shall apply to any act done or omitted in good faith conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason. The Commentary is an "interpretation" of a regulation by the Board within the meaning of section 611.

II. Section 229.2 Definitions

A. Background

1. Section 229.2 defines the terms used in the regulation. For the most part, terms are defined as they are in section 602 of the

Expedited Funds Availability Act (12 U.S.C. 4001). The Board has made a number of changes for the sake of clarity, to conform the terminology to that which is familiar to the banking industry, to define terms that are not defined in the Act, and to carry out the purposes of the Act. The Board also has incorporated by reference the definitions of the Uniform Commercial Code where appropriate. Some of Regulation CC's definitions are self-explanatory and therefore are not discussed in this Commentary.

B. 229.2(a) Account

1. The Act defines account to mean "a demand deposit account or similar transaction account at a depository institution." The regulation defines account in terms of the definition of transaction account in the Board's Regulation D (12 CFR part 204). The definition of account in Regulation CC, however, excludes certain deposits, such as nondocumentary obligations (see 12 CFR 204.2(a)(1)(vii)), that are covered under the definition of transaction account in Regulation D. The definition applies to accounts with general third party payment powers but does not cover time deposits or savings deposits, including money market deposit accounts, even though they may have limited third party payment powers. The Board believes that it is appropriate to exclude these accounts because of the reference to demand deposits in the Act, which suggests that the Act is intended to apply only to accounts that permit unlimited third party transfers

2. The term account also differs from the definition of transaction account in Regulation D because the term account refers to accounts held at banks. Under Subparts A and C, the term bank includes not only any depository institution, as defined in the Act, but also any person engaged in the business of banking, such as a Federal Reserve Bank, a Federal Home Loan Bank, or a private banker that is not subject to Regulation D. Thus, accounts at these institutions benefit from the expeditious return requirements of Subpart C.

3. Interbank deposits, including accounts of offices of domestic banks or foreign banks located outside the United States, and direct and indirect accounts of the United States Treasury (including Treasury General Accounts and Treasury Tax and Loan Deposit Accounts) are exempt from Regulation CC. C. 229.2(b) Automated Clearinghouse

(ACH)

1. The Board has defined automated clearinghouse as a facility that processes debit and credit transfers under rules established by a Federal Reserve Bank operating circular governing automated clearinghouse items or the rules of an ACH association. ACH credit transfers are included in the definition of electronic payment.

2. The reference to "debit and credit transfers" does not refer to the corresponding debit and credit entries that are part of the same transaction, but to different kinds of ACH payments. In an ACH credit transfer, the originator orders that its account be debited and another account credited. In an ACH debit transfer, the originator, with prior authorization, orders another account to be debited and the originator's account to be credited.

3. A facility that handles only wire transfers (defined elsewhere) is not an ACH. D. 229.2(c) Automated Teller Machine (ATM)

1. ATM is not defined in the Act. The regulation defines an ATM as an electronic device at which a natural person may make deposits to an account by cash or check and perform other account transactions. Point-ofsale terminals, machines that only dispense cash, night depositories, and lobby deposit boxes are not ATMs within the meaning of the definition, either because they do not accept deposits of cash or checks (e.g., pointof-sale terminals and cash dispensers) or because they only accept deposits (e.g., night depositories and lobby boxes) and cannot perform other transactions. A lobby deposit box or similar receptacle in which written payment orders or deposits may be placed is not an ATM.

2. A facility may be an ATM within this definition even if it is a branch under state or federal law, although an ATM is not a branch as that term is used in this regulation.

E. 229.2(d) Available for Withdrawal

1. Under this definition, when funds become available for withdrawal, the funds may be put to all uses for which the customer may use actually and finally collected funds in the customer's account under the customer's account agreement with the bank. Examples of such uses include payment of checks drawn on the account, certification of checks, electronic payments, and cash withdrawals. Funds are available for these uses notwithstanding provisions of other law that may restrict the use of uncollected funds (e.g., 18 U.S.C. 1004; 12 U.S.C. 331). 2. If a bank makes funds available to a

customer for a specific purpose (such as paying checks that would otherwise overdraw the customer's account and be returned for insufficient funds) before the funds must be made available under the bank's policy or this regulation, it may nevertheless apply a hold consistent with this regulation to those funds for other purposes (such as cash withdrawals). For purposes of this regulation, funds are considered available for withdrawal even though they are being held by the bank to satisfy an obligation of the customer other than the customer's potential liability for the return of the check. For example, funds are available for withdrawal even though they are being held by a bank to satisfy a garnishment, tax levy, or court order restricting disbursements from the account, or to satisfy the customer's liability arising from the certification of a check, sale of a cashier's or teller's check, guaranty or acceptance of a check, or similar transaction.

F. 229.2(e) Bank

1. The Act uses the term depository institution, which it defines by reference to section 19(b)(1)(A)(i) through (vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i) through (vi)). This regulation uses the term bank, a term that conforms to the usage the Board has previously adopted in Regulation J. Bank is also used in Articles 4 and 4A of the Uniform Commercial Code.