cash withdrawal limit, and explicitly provides that the Act does not supersede the bank's policy in this regard. The Board believes that the rationale for accommodating a bank's ATM withdrawal limit also applies to other cash withdrawal limits established by that bank. Section 229.19(c)(4) of the regulation addresses the relation between a bank's cash withdrawal limit (for over-the-counter cash withdrawals as well as ATM cash withdrawals) and the requirements of this subpart.

3. The Board believes that the Congress included this special cash withdrawal rule to provide a depositary bank with additional time to learn of the nonpayment of a check before it must make funds available to its customer. If a customer deposits a local check on a Monday, and that check is returned by the paying bank, the depositary bank may not receive the returned check until Thursday, the day after funds for a local check ordinarily must be made available for withdrawal. The intent of the special cash withdrawal rule is to minimize this risk to the depositary bank. For this rule to minimize the depositary bank's risk, it must apply not only to cash withdrawals, but also to withdrawals by other means that result in an irrevocable debit to the customer's account or commitment to pay by the bank on the customer's behalf during the day. Thus, the cash withdrawal rule also includes withdrawals by electronic payment, issuance of a cashier's or teller's check, certification of a check, or other irrevocable commitment to pay, such as authorization of an on-line point-of-sale debit. The rule also would apply to checks presented over the counter for payment on the day of presentment by the depositor or another person. Such checks could not be dishonored for insufficient funds if an amount sufficient to cover the check had became available for cash withdrawal under this rule; however, payment of such checks would be subject to the bank's cut-off hour established under U.C.C. 4-108. The cash withdrawal rule does not apply to checks and other provisional debits presented to the bank for payment that the bank has the right to return.

E. 229.12(e) Extension of Schedule for Certain Deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands

1. The Act and regulation provide an extension of the availability schedules for check deposits at a branch of a bank if the branch is located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands. The schedules for local checks, nonlocal checks (including nonlocal checks subject to the reduced schedules of Appendix B), and deposits at nonproprietary ATMs are extended by one business day for checks deposited to accounts in banks located in these jurisdictions that are drawn on or payable at or through a paying bank not located in the same jurisdiction as the depositary bank. For example, a check deposited in a bank in Hawaii and drawn on a San Francisco paying bank must be made available for withdrawal not later than the third business day following deposit. This extension does not apply to deposits that must be made available for withdrawal on the next business day.

2. The Congress did not provide this extension of the schedules to checks drawn on a paying bank located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands and deposited in an account at a depositary bank in the 48 contiguous states. Therefore, a check deposited in a San Francisco bank drawn on a Hawaii paying bank must be made available for withdrawal not later than the second rather than the third business day following deposit.

F. 229.12(f) Deposits at Nonproprietary ATMs

1. The Act and regulation provide a special rule for deposits made at nonproprietary ATMs. This paragraph does not apply to deposits made at proprietary ATMs. All deposits at a nonproprietary ATM must be made available for withdrawal by the fifth business day following the banking day of deposit. For example, a deposit made at a nonproprietary ATM on a Monday, including any deposit by cash or checks that would otherwise be subject to next-day (or secondday) availability, must be made available for withdrawal not later than Monday of the following week. The provisions of § 229.10(c)(1)(vii) requiring a depositary bank to make up to \$100 of an aggregate daily deposit available for withdrawal on the first business day after the banking day of deposit do not apply to deposits at a nonproprietary

VII. Section 229.13 Exceptions

A. Introduction

- 1. While certain safeguard exceptions (such as those for new accounts and checks the bank has reasonable cause to believe are uncollectible) are established in the Act, the Congress gave the Board the discretion to determine whether certain other exceptions should be included in its regulations. Specifically, the Act gives the Board the authority to establish exceptions to the schedules for large or redeposited checks and for accounts that have been repeatedly overdrawn. These exceptions apply to local and nonlocal checks as well as to checks that must otherwise be accorded next-day (or second-day) availability under § 229.10(c).
- 2. Many checks will not be returned to the depositary bank by the time funds must be made available for withdrawal under the next-day (or second-day), local, and nonlocal schedules. In order to reduce risk to depositary banks, the Board has exercised its statutory authority to adopt these exceptions to the schedules in the regulation to allow the depositary bank to extend the time within which it is required to make funds available.
- 3. The Act also gives the Board the authority to suspend the schedules for any classification of checks, if the schedules result in an unacceptable level of fraud losses. The Board will adopt regulations or issue orders to implement this statutory authority if and when circumstances requiring its implementation arise.

B. 229.13(a) New Accounts

- 1. Definition of New Account.
- a. The Act provides an exception to the availability schedule for new accounts. An account is defined as a new account during the first 30 calendar days after the account

is opened. An account is opened when the first deposit is made to the account. An account is not considered a new account, however, if each customer on the account has a transaction account relationship with the depositary bank, including a dormant account, that is at least 30 calendar days old or if each customer has had an established transaction account with the depositary bank within the 30 calendar days prior to opening the second account.

b. The following are examples of what constitutes, and does not constitute, a new account:

i. If the customer has an established account with a bank and opens a second account with the bank, the second account is not subject to the new account exception.

ii. If a customer's account were closed and another account opened as a successor to the original account (due, for example, to the theft of checks or a debit card used to access the original account), the successor account is not subject to the new account exception, assuming the previous account relationship is at least 30 days old. Similarly, if a customer closes an established account and opens a separate account within 30 days, the new account is not subject to the new account exception.

iii. If a customer has a savings deposit or other deposit that is not an account (as that term is defined in § 229.2(a)) at the bank, and opens an account, the account is subject to the new account exception.

iv. If a person that is authorized to sign on a corporate account (but has no other relationship with the bank) opens a personal account, the personal account is subject to the new account exception.

v. If a customer has an established joint account at a bank, and subsequently opens an individual account with that bank, the individual account is not subject to the new account exception.

vi. If two customers that each have an established individual account with the bank open a joint account, the joint account is not subject to the new account exception. If one of the customers on the account has no current or recent established account relationship with the bank, however, the joint account is subject to the new account exception, even if the other individual on the account has an established account relationship with the bank.

2. Rules Applicable to New Accounts.

- a. During the new account exception period, the schedules for local and nonlocal checks do not apply, and, unlike the other exceptions provided in this section, the regulation provides no maximum time frames within which the proceeds of these deposits must be made available for withdrawal. Maximum times within which funds must be available for withdrawal during the new account period are provided, however, for certain other deposits. Deposits received by cash and electronic payments must be made available for withdrawal in accordance with § 229.10.
- b. Special rules also apply to deposits of Treasury checks, U.S. Postal Service money orders, checks drawn on Federal Reserve Banks and Federal Home Loan Banks, state and local government checks, cashier's