- b. i. If a check is presented to a paying bank on Monday and the paying bank would normally collect checks drawn on the depositary bank by sending them to a correspondent or a Federal Reserve Bank by courier, the paying bank could send the returned check to its correspondent or Federal Reserve Bank, provided that the correspondent has agreed to handle returned checks expeditiously under § 229.31(a). (All Federal Reserve Banks agree to handle returned checks expeditiously.)
- ii. The paying bank must deliver the returned check to the correspondent or Federal Reserve Bank by the correspondent's or Federal Reserve Bank's appropriate cut-off hour. The appropriate cut-off hour is the cut-off hour for returned checks that corresponds to the cut-off hour for forward collection checks drawn on the depositary bank that would normally be used by the paying bank or a similarly situated bank. A returned check cut-off hour corresponds to a forward collection cut-off hour if it provides for the same or faster availability for checks destined for the same depositary banks.
- iii. In this example, delivery to the correspondent or a Federal Reserve Bank by the appropriate cut-off hour satisfies the paying bank's duty, even if use of the correspondent or Federal Reserve Bank is not the most expeditious means of returning the check. Thus, a paying bank may send a local returned check to a correspondent instead of a Federal Reserve Bank, even if the correspondent then sends the returned check to a Federal Reserve Bank the following day as a qualified returned check. Where the paying bank delivers forward collection checks by courier to the correspondent or the Federal Reserve Bank, mailing returned checks to the correspondent or Federal Reserve Bank would not satisfy the forward
- iv. If a paying bank ordinarily mails its forward collection checks to its correspondent or Federal Reserve Bank in order to avoid the costs of a courier delivery, but similarly situated banks use a courier to deliver forward collection checks to their correspondent or Federal Reserve Bank, the paying bank must send its returned checks by courier to meet the forward collection test.
- c. If a paying bank normally sends its forward collection checks directly to the depositary bank, which is located in another community, but similarly situated banks send forward collection checks drawn on the depositary bank to a correspondent or a Federal Reserve Bank, the paying bank would not have to send returned checks directly to the depositary bank, but could send them to a correspondent or a Federal Reserve Bank.
- d. The dollar amount of the returned check has a bearing on how it must be returned. If the paying bank and similarly situated banks present large-dollar checks drawn on the depositary bank directly to the depositary bank, but use a Federal Reserve Bank or a correspondent to collect small-dollar checks, generally the paying bank would be required to send its large-dollar returns directly to the depositary bank (or through a returning bank, if the checks are returned as quickly), but could use a Federal Reserve Bank or a correspondent for its small-dollar returns.

- 6. Choice of returning bank. In meeting the requirements of the forward collection test the paying bank is responsible for its own actions, but not for those of the depositary bank or returning banks. (This is analogous to the responsibility of collecting banks under U.C.C. 4-202(c).) For example, if the paying bank starts the return of the check in a timely manner but return is delayed by a returning bank (including delay to create a qualified returned check), generally the paying bank has met its requirements. (See § 229.38.) If, however, the paying bank selects a returning bank that the paying bank should know is not capable of meeting its return requirements, the paying bank will not have met its obligation of exercising ordinary care in selecting intermediaries to return the check. The paying bank is free to use a method of return, other than its method of forward collection, as long as the alternate method results in delivery of the returned check to the depositary bank as quickly as the forward collection of a check drawn on the depositary bank or, where the returning bank takes a day to create a qualified returned check under § 229.31(a), one day later than the forward collection time. If a paying bank returns a check on its banking day of receipt without settling for the check, as permitted under U.C.C. 4-302(a), and receives settlement for the returned check from a returning bank, it must promptly pay the amount of the check to the collecting bank from which it received the check.
- 7. Qualified returned checks. Although paying banks may wish to prepare qualified returned checks because they will be handled at a lower cost by returning banks, the one business day extension provided to returning banks is not available to paying banks because of the longer time that a paying bank has to dispatch the check. Normally, paying banks will be able to convert a check to a qualified returned check at any time after the determination is made to return the check until late in the day following presentment, while a returning bank may receive returned checks late on one day and be expected to dispatch them early the next morning.
- 8. Routing of returned checks.
- a. In effect, under either test, the paying bank acts as an agent or subagent of the depositary bank in selecting a means of return. Under § 229.30(a), a paying bank is authorized to route the returned check in a variety of ways:
- i. It may send the returned check directly to the depositary bank by courier or other means of delivery, bypassing returning banks; or
- ii. It may send the returned check to any returning bank agreeing to handle the returned check for expeditious return to the depositary bank under § 229.31(a), regardless of whether or not the returning bank handled the check for forward collection.
- b. If the paying bank elects to return the check directly to the depositary bank, it is not necessarily required to return the check to the branch of first deposit. The check may be returned to the depositary bank at any location permitted under § 229.32(a).
 - 9. Midnight deadline.
- a. Except for the extension permitted by § 229.30(c), discussed below, this section

- does not relieve a paying bank from the requirement for timely return (i.e., midnight deadline) under U.C.C. 4-301 and 4-302, which continue to apply. Under U.C.C. 4 302, a paying bank is "accountable" for the amount of a demand item, other than a documentary draft, if it does not pay or return the item or send notice of dishonor by its midnight deadline. Under U.C.C. 3-418(c) and 4-215(a), late return constitutes payment and would be final in favor of a holder in due course or a person who has in good faith changed his position in reliance on the payment. Thus, retaining this requirement gives the paying bank an additional incentive to make a prompt return.
- b. The expeditious return requirement applies to a paying bank that determines not to pay a check. This requirement applies to a payable-through or a payable-at bank that is defined as a paying bank (see § 229.2(z)) and that returns a check. This requirement begins when the payable-through or payableat bank receives the check during forward collection, not when the payor returns the check to the payable-through or payable-at bank. Nevertheless, a check sent for payment or collection to a payable-through or payableat bank is not considered to be drawn on that bank for purposes of the midnight deadline provision of U.C.C. 4-301. (See discussion of § 229.36(a).
- c. The liability section of this subpart (§ 229.38) provides that a paying bank is not subject to both "accountability" for missing the midnight deadline under the U.C.C. and liability for missing the timeliness requirements of this regulation. Also, a paying bank is not responsible for failure to make expeditious return to a party that has breached a presentment warranty under U.C.C. 4–208, notwithstanding that the paying bank has returned the check. (See Commentary to § 229.33(a).)
- 10. U.C.C. provisions affected. This paragraph directly affects the following provisions of the U.C.C., and may affect other sections or provisions:
- a. Section 4–301(d), in that instead of returning a check through a clearinghouse or to the presenting bank, a paying bank may send a returned check to the depositary bank or to a returning bank.
- b. Section 4–301(a), in that time limits specified in that section may be affected by the additional requirement to make an expeditious return and in that settlement for returned checks is made under § 229.31(c), not by revocation of settlement.
- B. 229.30(b) Unidentifiable Depositary Bank
- 1. In some cases, a paying bank will be unable to identify the depositary bank through the use of ordinary care and good faith. The Board expects that these cases will be unusual as skilled return clerks will readily identify the depositary bank from the depositary bank indorsement required under § 229.35 and Appendix D. In cases where the paying bank is unable to identify the depositary bank, the paying bank may, in accordance with § 229.30(a), send the returned check to a returning bank that agrees to handle the returned check for expeditious return to the depositary bank under § 229.31(a). The returning bank may be better able to identify the depositary bank.