B. 229.36(b) Receipt at Bank Office or Processing Center

1. This paragraph seeks to facilitate efficient presentment of checks to promote early return or notice of nonpayment to the depositary bank and clarifies the law as to the effect of presentment by routing number. This paragraph differs from § 229.32(a) because presentment of checks differs from delivery of returned checks.

2. The paragraph specifies four locations at which the paying bank must accept presentment of checks. Where the check is payable through a bank and the check is sent to that bank, the payable-through bank is the paying bank for purposes of this subpart, regardless of whether the paying bank must present the check to another bank or to a

nonbank payor for payment.

- a. Delivery of checks may be made, and presentment is considered to occur, at a location (including a processing center) requested by the paying bank. This is the way most checks are presented by banks today This provision adopts the common law rule of a number of legal decisions that the processing center acts as the agent of the paying bank to accept presentment and to begin the time for processing of the check. (See also U.C.C. 4-204(c).) If a bank designates different locations for the presentment of forward collection checks bearing different routing numbers, for purposes of this paragraph it requests presentment of checks bearing a particular routing number only at the location designated for receipt of forward collection checks bearing that routing number.
- b. i. Delivery may be made at an office of the bank associated with the routing number on the check. The office associated with the routing number of a bank is found in American Bankers Association Key to Routing Numbers, published by Thomson Financial Publishing Inc., which lists a city and state address for each routing number. Checks generally are handled by collecting banks on the basis of the nine-digit routing number encoded in magnetic ink (or on the basis of the fractional form routing number if the magnetic ink characters are obliterated) on the check, rather than the printed name or address. The definition of a paying bank in § 229.2(z) includes a bank designated by routing number, whether or not there is a name on the check, and whether or not any name is consistent with the routing number. Where a check is payable by one bank, but payable through another, the routing number is that of the payable-through bank, not that of the payor bank. As the payor bank has selected the payable-through bank as the point through which presentment is to be made, it is proper to treat the payablethrough bank as the paying bank for purposes of this section.
- ii. There is no requirement in the regulation that the name and address on the check agree with the address associated with the routing number on the check. A bank generally may control the use of its routing number, just as it does the use of its name. The address associated with the routing number may be a processing center.

iii. In some cases, a paying bank may have several offices in the city associated with the routing number. In such case, it would not be reasonable or efficient to require the presenting bank to sort the checks by more specific branch addresses that might be printed on the checks, and to deliver the checks to each branch. A collecting bank normally would deliver all checks to one location. In cases where checks are delivered to a branch other than the branch on which they may be drawn, computer and courier communication among branches should permit the paying bank to determine quickly whether to pay the check.

c. If the check specifies the name of the paying bank but no address, the bank must accept delivery at any office. Where delivery is made by a person other than a bank, or where the routing number is not readable, delivery will be made based on the name and address of the paying bank on the check. If there is no address, delivery may be made at any office of the paying bank. This provision is consistent with U.C.C. 3-111, which states that presentment for payment may be made at the place specified in the instrument, or, if there is none, at the place of business of the party to pay. Thus, there is a trade-off for a paying bank between specifying a particular address on a check to limit locations of delivery, and simply stating the name of the bank to encourage wider currency for the check.

d. If the check specifies the name and address of a branch or head office, or other location (such as a processing center), the check may be delivered by delivery to that office or other location. If the address is too general to identify a particular office, delivery may be made at any office consistent with the address. For example, if the address is "San Francisco, California," each office in San Francisco must accept presentment. The designation of an address on the check generally is in the control of the paying bank.

3. This paragraph may affect U.C.C. 3–111 to the extent that the U.C.C. requires presentment to occur at a place specified in the instrument.

## C. 229.36(c) Truncation

1. Truncation includes a variety of procedures in which the physical check is held or delayed by the depositary or collecting bank, and the information from the check is transmitted to the paying bank electronically. Presentment takes place when the paying bank receives the electronic transmission. This process has the potential to improve the efficiency of check processing, and express provision for truncation and electronic presentment is made in U.C.C. 4-110 and 4-406(b). This paragraph allows truncation by agreement with the paying bank; however, such agreement may not prejudice the interests of prior parties to the check. For example, a truncation agreement may not extend the paying bank's time for return. Such an extension could damage the depositary bank, which must make funds available to its customers under mandatory availability schedules.

## D. 229.36(d) Liability of Bank During Forward Collection

1. This paragraph makes settlement between banks during forward collection

final when made, subject to any deferment of credit, just as settlements between banks during the return of checks are final. In addition, this paragraph clarifies that this change does not affect the liability scheme under U.C.C. 4-201 during forward collection of a check. That U.C.C. section provides that, unless a contrary intent clearly appears, a bank is an agent or subagent of the owner of a check, but that Article 4 of the U.C.C. applies even though a bank may have purchased an item and is the owner of it. This paragraph preserves the liability of a collecting bank to prior collecting banks and the depositary bank's customer for negligence during the forward collection of a check under the U.C.C., even though this paragraph provides that settlement between banks during forward collection is final rather than provisional. Settlement by a paying bank is not considered to be final payment for the purposes of U.C.C. 4–215(a)(2) or (3), because a paying bank has the right to recover settlement from a returning or depositary bank to which it returns a check under this subpart. Other provisions of the U.C.C. not superseded by this subpart, such as section 4-202, also continue to apply to the forward collection of a check and may apply to the return of a check. (See definition of returning bank in § 229.2(cc).)

## E. 229.36(e) Issuance of Payable Through Checks

- 1. If a bank arranges for checks payable by it to be payable through another bank, it must require its customers to use checks that contain conspicuously on their face the name, location, and first four digits of the nine-digit routing number of the bank by which the check is payable and the legend "payable through" followed by the name and location of the payable-through bank. The first four digits of the nine-digit routing number and the location of the bank by which the check is payable must be associated with the same check processing region. (This section does not affect § 229.36(b).) The required information is deemed conspicuous if it is printed in a type size not smaller than six-point type and if it is contained in the title plate, which is located in the lower left quadrant of the check. The required information may be conspicuous if it is located elsewhere on the check.
- 2. If a payable-through check does not meet the requirements of this paragraph, the bank by which the check is payable may be liable to the depositary bank or others as provided in § 229.38. For example, a bank by which a payable-through check is payable could be liable to a depositary bank that suffers a loss, such as lost interest or liability under Subpart B, that would not have occurred had the check met the requirements of this paragraph. Similarly, a bank may be liable under § 229.38 if a check payable by it that is not payable through another bank is labeled as provided in this section. For example, a bank that holds checking accounts and processes checks at a central location but has widely-dispersed branches may be liable under this section if it labels all of its checks as "payable through" a single branch and includes the name, address, and four-digit routing symbol of another branch.