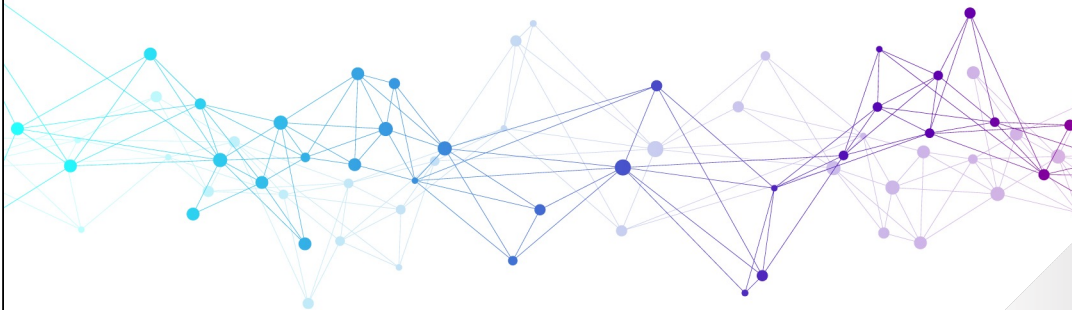


Regulation CC

For Compliance Officers



Overview



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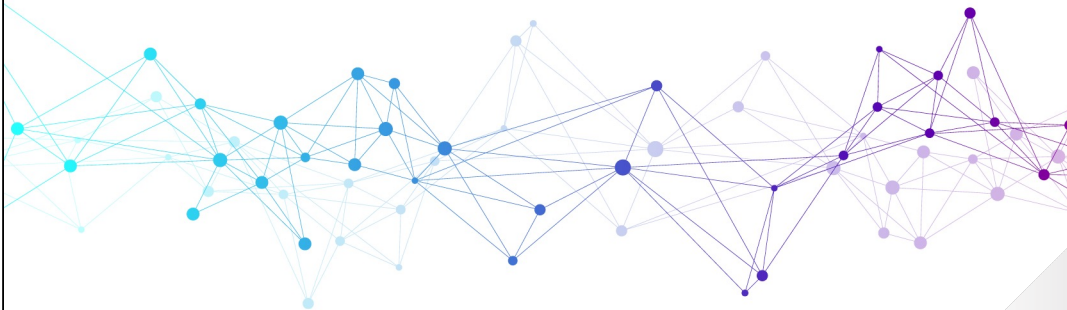


Overview

- The Expedited Funds Availability Act (EFAA) is the law
- The Federal Reserve has rulemaking authority
- Regulation CC Requirements are found at [12 CFR 229](#)



General Information



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Definitions



- **Business Day:** Calendar day other than Saturday, Sunday or Federal Reserve Bank Holidays (state holidays are considered a business day, even if you are not open)
- **Banking Day:** Any day on which a credit union is open to the public

General Information

- Certain deposits that pose a low risk of return must be available for members to withdraw on the next business day after the banking day of deposit.
- All other deposits must be available for withdrawal on the second business day after the banking day of deposit.

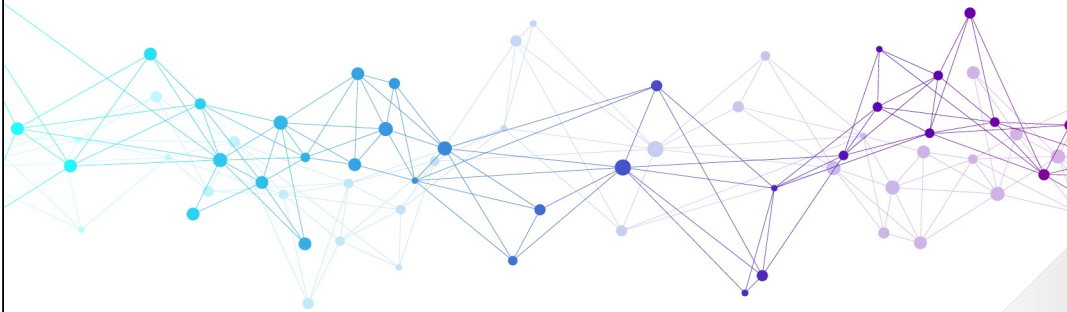
General Information

- Longer holds may be placed under certain conditions
- Hold restrictions only apply to consumer and non-consumer checking or share draft accounts
- Reg CC does not apply to savings, or share accounts, or deposits made by remote deposit capture

Credit Union Superpower



Next-Day Availability



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Next Day Availability

Next-day availability is required for “low risk” deposits and may be conditioned upon any one or more of three statutory requirements (some exceptions apply):

- The check must be payable to the accountholder
- The deposit must be made at a staffed teller station
- Deposits must be made using a special deposit slip or envelope

Next Day Availability

If the next-day items do not meet these conditions, they can be made available for withdrawal on the second business day after the banking day of deposit.

Next Day Availability

Item	Description	Exceptions
<i>Cash</i>	U.S. Coins and Currency	<ul style="list-style-type: none"> • In-person exception doesn't apply • Deposit slip exception doesn't apply
<i>Electronic Payments</i>	Fedwire, ACH	<ul style="list-style-type: none"> • In-person exception doesn't apply • Deposit slip exception doesn't apply • Payee exception doesn't apply
<i>Treasury Checks</i>	Checks drawn on the U.S. Treasury	<ul style="list-style-type: none"> • Proprietary ATMs, Night deposit boxes and lobby deposit boxes are considered "staffed locations" • Deposit slip exception doesn't apply
<i>U.S. Postal Service Money Orders</i>		Can't require a special deposit slip

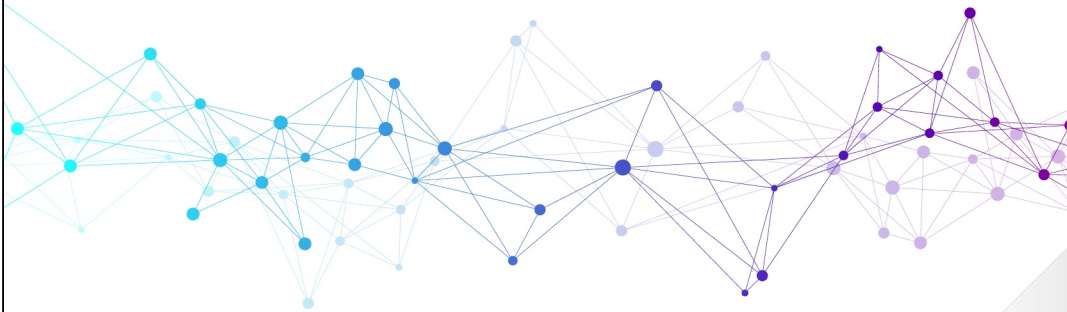


Next Day Availability

Item	Description	Exceptions
<i>Federal Reserve Bank and Federal Home Loan Bank checks</i>		Can't require a special deposit slip
<i>State and Local Government Checks</i>	Checks drawn on a state or unit of local government	Deposited in a credit union located in the state that issued the check or located in the same state where the government unit is located.
<i>Cashier's, certified, and teller's checks</i>	"Official" or "Credit Union" Checks	
<i>On-Us Checks</i>	Checks deposited to a branch of the depository credit union and drawn on the same or another branch of the same credit union	Proprietary ATMs, Night deposit boxes and lobby deposit boxes are considered "staffed locations"
<i>First \$225 of all other items</i>		<ul style="list-style-type: none"> Aggregate all non next-day items \$255 is in addition to next-day items



General Funds Availability



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General Funds Availability

All items that do not require next-day availability must be available on the second business day after the banking day of deposit. This includes:

- Non-next day items
- Next-day items that do not qualify for next-day availability

**Hold extensions on subsequent withdrawals of cash are available



General Funds Availability

Nonproprietary ATMs

Credit unions may place holds on deposits made at non-proprietary ATMs for five business days

General Funds Availability

Additional Cash Withdrawals

Additional cash withdrawals (beyond the \$225 that must be available the next day) may be delayed by one business day:

- The depository credit union must make \$450 of a deposit available for withdrawal by cash or similar means (electronic payment, cashier's check, etc.) not later than 5 p.m. on the business day the funds would otherwise be available.
- The availability of the remainder of the deposit can be delayed as a cash withdrawal until the morning of the following business day.

General Funds Availability

Additional Cash Withdrawals

Example:

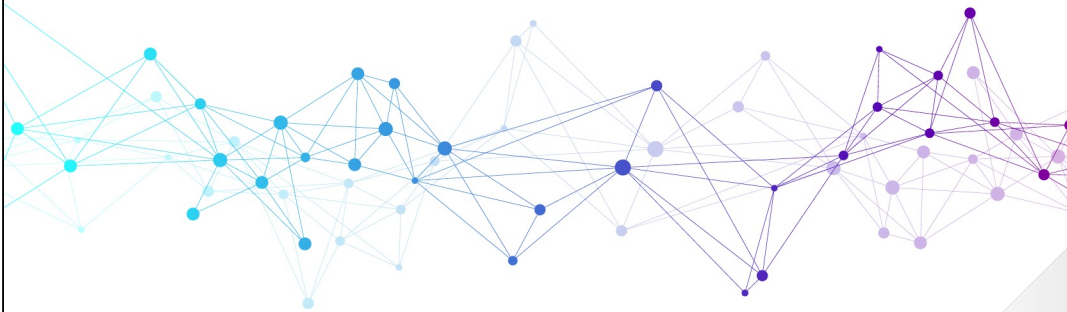
- A member deposits an \$1000 non-next day check on Monday
- \$225 must be available on Tuesday (day 1/next day)
- \$450 must be available in cash by 5 p.m. on Wednesday (day 2)
- The remainder of the deposit would be available to write checks on Wednesday (day 2)
- Any remaining funds are available for cash withdrawal on Thursday morning (day 3)

General Funds Availability

Immediate Availability

It is very common for credit unions to generally make funds from deposits available for immediate withdrawal.

Exception Holds



Exception Holds

- Credit unions may extend the time when funds must be made available for withdrawal in certain “safeguard” circumstances.
- Funds from exception holds must be made available for withdrawal according to the following schedule:

Exception Holds

Item	Availability
<i>Cash and Electronic Payments</i>	Next day
<i>On-us Checks</i>	2 business days
<i>Treasury Checks and U.S. Postal Service Money Orders</i>	5 business days
<i>All other checks</i>	7 business days

Exception Holds

Large Deposits

- The first \$5,525 of a day's deposit is subject to next-day and general hold schedules. The amount in excess of \$5,525 may be held.
- The first \$225 of checks made available on a next-day basis may be taken into account in determining the deposit amount subject to the additional hold.

Re-deposited Checks

- A check that has been returned unpaid and is re-deposited by the member may be held.
- The \$225 next-day availability rule does not apply.
- This exception does not apply to checks that were returned because they were post-dated or missing an endorsement as long as the error no longer exists.

Exception Holds

Repeat Overdrafts

- A credit union can extend hold schedule for items deposited into an account of a member who is repeatedly overdrawn (can be any account of the member that is overdrawn)
- “Repeatedly overdrawn” means any account of the member was overdrawn for six days during the last six months or overdrawn by \$5,525 or more for two days during the last six months.
- The \$225 next-day availability rule does not apply
- This exception relates not only to overdrafts caused by checks but to any other debit charges, such as ACH debits, point-of-sale transactions, returned checks, and account fees.

Exception Holds

Reasonable Cause to Doubt Collectability

- A credit union can extend the general check hold schedule for items believed to be uncollectible
- Reasonable cause to believe a check is uncollectible require *“the existence of facts that would cause a well-founded belief in the mind of a reasonable person.”*
- The \$225 next-day availability rule does not apply

Reasonable-cause Exception Notice

- If this exception is invoked, the credit union must notify the member of the reason the credit union believes the check is uncollectable.
- The credit union must retain a record of each notice of a reasonable-cause exception (including the reasons) for two years.

Exception Holds

Reasonable Cause to Doubt Collectability

Overdraft Fees

- If the reasonable cause notice is not given to the member at the time of the deposit, the credit union may not charge the member any overdraft fee or NSF fee, or charge interest for use of over- draft credit, provided the check is paid by the paying bank and these charges would not have occurred had the exception not been invoked.
- In order to charge an overdraft fee under these circumstances, the credit union must provide the Notice of Exception Hold or Reasonable Cause Notice and must include a provision that the member may be entitled to a refund of any overdraft fees as well as indicate where to direct a refund request.

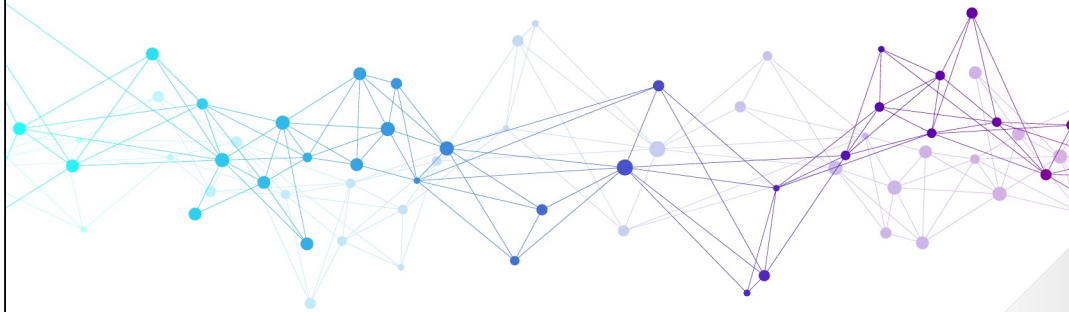
Exception Holds

Emergency Conditions

Credit Unions may extend the general hold schedule during certain emergency situations.

- Emergencies would include circumstances such as:
 - An interruption of communications, computer, or other equipment facilities
 - A suspension of payments by another institution
 - A war
 - An emergency condition beyond the control of the depository credit union
- Funds must be available for withdrawal within a reasonable period after the emergency ends.
- The \$225 next-day availability rule does not apply

New Account Holds



New Account Holds

Regulation CC provides an exception to the availability schedules for deposits made to a new account:

- An account is a “new account” during the first 30 calendar days after it has been opened with an initial deposit.
- Members with existing transaction (checking) accounts are not subject to the new account rules even when they open additional accounts.
- Non-next day items may be held according to the discretion of the credit union (hold period must be disclosed in the new account disclosures)

New Account Holds

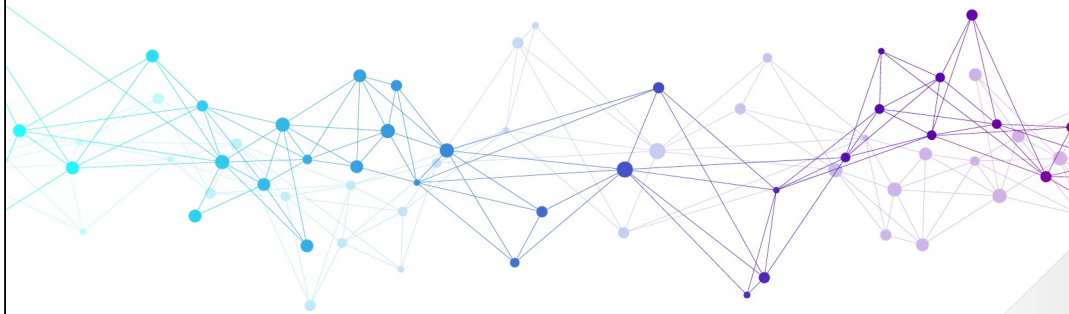
- The \$225 next-day availability does not apply
- On-us checks are not considered next-day items for new accounts
- A hold notice is not required during the 30-day new account period as long as an initial disclosure statement is given to the member at the time the new account is opened.

New Account Holds

New Account Hold Schedule

Item	Hold Period
<i>Cash and electronic payments</i>	Next day
<i>Treasury checks, U.S. Postal money orders, Federal Reserve and FHLB checks, state and local government checks, cashier's, certified, teller's checks</i>	First \$5,525 must be available on the next business day. Funds in excess of \$5,525 must be available by the ninth business day.
<i>On-us checks, non-next day items</i>	Credit union discretion

Received by Dates



Received by Dates

- The day the deposit is made is the starting point for determining when funds must be made available for withdrawal.
- The day funds are deposited varies depending on the circumstances of the deposit



Received by Dates

How Funds are Received	When Funds are Considered Received
<i>Staffed teller station</i>	When received by the teller
<i>Mailed</i>	When mail is delivered to the credit union
<i>Night depository</i>	On the banking day the deposit is removed, and the contents of the deposit are accessible for processing (for example, funds deposited in a locked bag would be accessible when the bag is unlocked).
<i>On-premises ATM</i>	When funds are placed in the ATM
<i>Off-premises ATM</i>	On the day the funds are removed from the ATM
<i>After closing or cut-off time</i>	Next banking day



Received by Dates

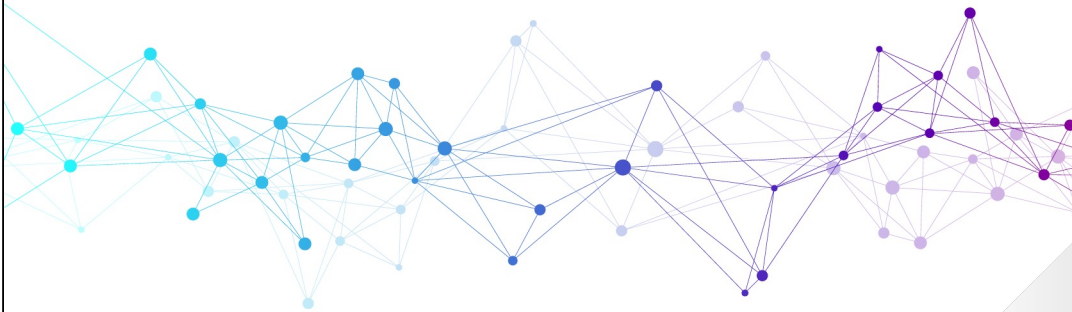
Cut-off Time

- A credit union may establish a cutoff hour of 2 p.m. or later for receipt of deposits in any branch office, and a cutoff hour of noon or later for deposits at ATMs, contractual branches, or off-premises facilities.
- A credit union may establish different cutoff hours for different types of deposits or for deposits received at different locations so long as the minimum cutoff hours are followed.

Availability Time

On the availability date, funds must be available for withdrawal by 9 a.m. or the time the credit union's teller facilities, including ATMs, are available for member account withdrawals, whichever is later.

Payment of Interest/Dividends

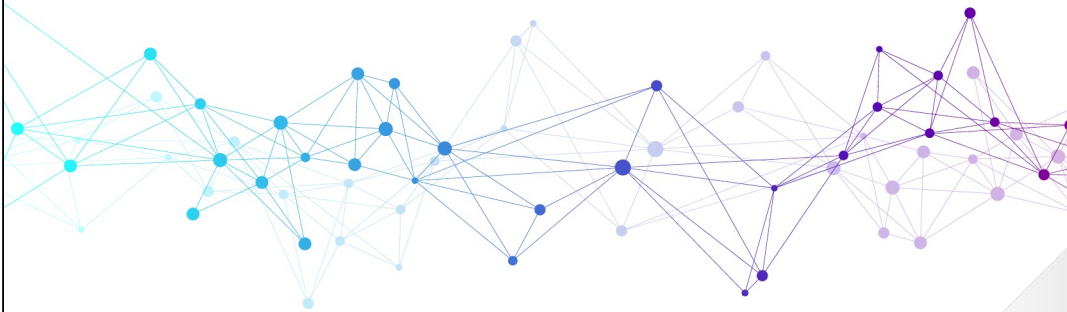


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Payment of Interest/Dividends

- A credit union must begin to accrue dividends/interest on funds deposited in a dividend or interest-bearing transaction account not later than the business day on which credit for the funds is received.
- For the purposes of determining dividends or interest accrued on deposits, a credit union may rely on an availability schedule from its Federal Reserve Bank or Federal Home Loan Bank to determine when they actually receive credit.
- Alternatively, a credit union may accrue dividends or interest on checks deposited to all of its dividend/interest-bearing accounts based on when the credit union receives credit on all checks sent for payment or collection.

Disclosure and Notice Requirements



Disclosure Standards

The disclosures required by Regulation CC must meet the following standards:

- Be clear and conspicuous
- Be in writing
- Be in a form the consumer can keep (except for lobby and ATM disclosures)
- Be grouped together: The disclosures can be included with other disclosures, but must be grouped under their own heading.
- Must contain uniform reference for counting business days: “on the _____ business day after the day of deposit”
- One notice: credit unions need only provide one disclosure to a member holding multiple accounts, or to one accountholder of a jointly held account.

New Account Disclosure

- Provide the initial disclosures before opening an account whether it is opened in person or online.
- If a written request to open an account is received by mail along with an initial deposit, the credit union may open the account, as long as the initial disclosure is mailed to the member no later than the business day following the banking day the deposit is received.

Initial Disclosure

- Provide the initial disclosures before opening an account whether it is opened in person or online.
- If a written request to open an account is received by mail along with an initial deposit, the credit union may open the account, as long as the initial disclosure is mailed to the member no later than the business day following the banking day the deposit is received.

** [Model Disclosures are Available](#)

Initial Disclosure

Required Content:

- A summary of the credit union's general availability policy
- For case-by-case hold policies, a description of the hold policy that might result in later availability than under the general policy
- A statement of when each deposit category will be available for withdrawal (stated in terms of the credit union's business days)
- A statement of when a deposit is considered received. The credit union would describe its deposit cutoff time for determining when deposits are considered received on the next day.

Initial Disclosure

Required Content:

- A description of any of the statutory exceptions (safeguard and new accounts) the credit union reserves the right to invoke, along with:
 - The time following deposit when funds would generally be available if an exception is invoked
 - A statement that the credit union will notify the member if one of the exceptions is invoked.
- A description of how the member may differentiate between a shared and proprietary ATM, if the credit union makes deposits from a shared ATM available for withdrawal later than the periods in the general availability policy.

Initial Disclosure

Required Content:

- **Case-by-Case Hold Information:** If a credit union has a general policy of making deposited funds available for withdrawal sooner than required under the regulation (for example, same or next day), the credit union may still impose holds on funds up to the regulatory time limits on a case-by-case basis but additional information on the specific disclosure policy must be included:
 - A statement that the time when deposited funds are available will be extended in some cases and specification of the latest time funds will be available
 - A statement that the credit union will notify the member if funds will be held beyond the time stated in the availability policy
 - A statement that members should inquire about the availability of a particular deposit

Subsequent Disclosures

Reg CC requires credit unions to give certain subsequent disclosures. In addition to providing the initial funds availability disclosures, a credit union must provide specific disclosures on two other occasions:

1. Upon request
2. Upon any change in the credit union's funds-availability policy

Subsequent Disclosures

Disclosure Upon Request

A credit union must provide its specific availability policy disclosure policy upon oral or written request. There is no required time period within which the specific disclosure must be provided but it should be sent within a reasonable period of time following the receipt of the request.

Subsequent Disclosures

Changes in Terms

- A credit union must send a notice to its members when it changes its funds availability policies. This notice must be sent at least 30 calendar days before implementing any change in terms of the availability.
- If the change results in faster availability of deposits, the credit union need not send advance notice but must send the notice of changed terms within 30 days after the change is implemented.
- The credit union may provide a notice describing the specific changed policy, or send members a complete new initial disclosure along with a letter or insert or highlight the changed terms in the disclosure.

Notice on Deposit Slips

- All credit unions must include a notice on all preprinted deposit slips furnished to members that deposits may not be available for immediate withdrawal.
- The deposit slip notice need only state, somewhere on the front of the deposit slip, that deposits may not be available for immediate withdrawal. ([See model language](#))
- The notice is required only on deposit slips that are preprinted with the member's account number and name and furnished by the credit union in response to a member's order.

Notice at Locations Where Credit Union Employees Accept Deposits

- Credit unions must post a notice regarding funds availability in a conspicuous place at each location where credit union employees receive deposits. (See [model language](#))
- The notice must be posted in a place where members seeking to make deposits are likely to see it before making their deposits.
- The notice is not required at drive-through teller windows, at night depositories, at locations where deposits are not accepted, or at contractual branches.

Notice at ATMs

Credit unions must either post or provide a notice regarding funds availability at all ATMs where deposits can be made to accounts stating that the funds deposited may not be available for immediate withdrawal. This notice may be given in a number of ways:

- Posted on a sign at the ATM
- Shown the ATM screen before the deposit is made
- Printed on deposit envelopes

Notice at ATMs

Off-premises ATMs

- Credit unions that operate off-premises ATMs from which deposits are removed not more than two times a week must disclose this fact.
- The notice must identify the days on which deposits made at the ATM will be considered received.

Notice at ATMs

Off-premises ATMs

- Credit unions that operate off-premises ATMs from which deposits are removed not more than two times a week must disclose this fact.
- The notice must identify the days on which deposits made at the ATM will be considered received.

Notice of Case-by-Case Holds

Credit unions that make deposited funds available for withdrawal sooner than required under the regulation but also delay or extend the time when deposited funds are available for withdrawal on a case-by-case basis must provide an additional notice.

The notice of a case-by-case hold must include the following information:

- Member account number
- Date of deposit
- Amount of deposit being delayed
- Date funds will be available for withdrawal

Notice of Case-by-Case Holds

Timing

- Provide the notice at the time of the deposit when possible.
- If the deposit is not made in person to an employee of the credit union (for example, ATM, lobby, night deposit box, or by mail), or the hold decision is made after the deposit, deliver the notice no later than the next business day after the day of deposit.

Exception Hold Notice

A special notice is required when an exception hold is invoked. The notice of exception must include the following information:

- The account number of the member
- The date of the deposit
- The amount of the deposit that is being delayed
- Date funds will be available for withdrawal
- **The reason the exception was invoked**

Reasonable Cause Exception Notice

- If the reasonable cause exception is invoked, the reason the credit union believes the check is uncollectible must also be disclosed.
- The reason must be specific. For example:
 - Notice of nonpayment of an item
 - Stop payment of an item
 - Insufficient funds notice
 - Stale date or postdate of a check

Reasonable Cause Exception Notice

Timing

- Provide the notice at the time of the deposit when possible.
- If the deposit is not made in person to an employee of the depository credit union (for example, ATM, lobby, night deposit box, or by mail), or the hold decision is made after the deposit, deliver the notice no later than the next business day after the day of deposit.

Records

- Retain a record of each notice of a reasonable cause exception for two years.
- This record must contain a brief description of the facts upon which the credit union based its judgment.

Questions?

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Compliance Specialist

heather@utahscreditunions.org

801-599-2168

