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of a payee of the check, (2) deposited in a depositary bank located in the same state as the state or local government that issued the check, (3) deposited in person to an employee of the depositary bank, and (4) deposited with a special deposit slip, if the depositary bank informed its customers that use of such a slip is a condition to next-day availability. Under the Federal law, if a state or local government check is not deposited in person to an employee of the depositary bank, but meets the other conditions set forth in §229.10(c)(1)(iv), the funds must be made available for withdrawal not later than the second business day following deposit. The Wisconsin statute supersedes Regulation CC to the extent that the state law does not permit the use of a special deposit slip as a condition to receipt of second-day availability.

Exceptions to the schedules. Wisconsin law provides exceptions to the state availability schedules for new accounts (those opened less than 90 days) and reason to doubt collectibility (Wisconsin Statutes sections 404.213(4m)(b); 215.136(2); and 186.117(2)). The state availability law also permits commercial banks to vary the funds availability requirements by agreement (Wisconsin Statute section 404.103(1)). In all cases where the Federal schedule preempts the state schedule, only the Federal exceptions apply. For deposits that are covered by the state availability schedule (e.g., in-state nonlocal checks), a state exception must apply in order to extend the state availability schedule up to the Federal availability schedule. Once the deposit is held up to the Federal availability limit under a state exception, the depositary bank may further extend the hold only if a Federal exception can be applied to the deposit. Any time a depositary bank invokes an exception to extend a hold beyond the time periods otherwise permitted by law, it must give notice of the extended hold to its customer in accordance with §229.13(g) of Regulation CC.

Business day/banking day. The definitions of *business day* and *banking day* in the Wisconsin statutes are preempted by the Regulation CC definition of those terms. For determining the permissible hold under the Wisconsin schedules that supersede the Regulation CC schedule, deposits are considered available for withdrawal on the specified number of *business days* following the *banking day* of deposit.

Wisconsin law considers funds to be deposited, for the purpose of determining when they must be made available for withdrawal, when an item is ''received at the proof and transit facility of the depository.'' For the purposes of this preemption determination, funds are considered deposited under Wisconsin law in accordance with the rules set forth in §229.19(a) of Regulation CC.

Disclosures

The Wisconsin statute does not require disclosure of a bank's funds availability policy. The state law does require, however, that a bank give notice to its customer if it extends the time within which funds will be available for withdrawal due to the bank's doubt as to the collectibility of the item (Wisconsin Statutes sections 404.213(4m)(b); 215.136(2); and 186.117(2)).

Regulation CC preempts state disclosure requirements concerning funds availability that relate to *accounts* that are inconsistent with the Federal requirements. The state requirement is different from, and therefore inconsistent with, the Federal disclosure rules (§229.20(c)(2)). Thus, the Wisconsin statute is preempted by Regulation CC to the extent that the state notice requirement applies to *accounts* as defined by Regulation CC. The Wisconsin requirement would continue to apply to accounts, such as savings and time accounts, not governed by the Regulation CC disclosure requirements.

[53 FR 32356, Aug. 24, 1988, as amended at 53 FR 44328, Nov. 2, 1988; 53 FR 47524, Nov. 22, 1988; 53 FR 51748, Dec. 23, 1988; Reg. CC, 54 FR 13838, Apr. 6, 1989; 55 FR 11358, Mar. 28, 1990; 60 FR 51703, Oct. 3, 1995]

PART 230—TRUTH IN SAVINGS (REGULATION DD)

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AUTHORITY: 12 U.S.C. 4301 *et seq.*

SOURCE: 57 FR 43376, Sept. 21, 1992, unless otherwise noted.