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(iii) Authority for administrative enforcement of this part's provisions.

(2) Subpart B of this part contains rules regarding the duty of banks to make funds deposited into accounts available for withdrawal, including availability schedules. Subpart B of this part also contains rules regarding exceptions to the schedules, disclosure of funds availability policies, payment of interest, liability of banks for failure to comply with Subpart B of this part, and other matters.

(3) Subpart C of this part contains rules to expedite the collection and return of checks by banks. These rules cover the direct return of checks, the manner in which the paying bank and returning banks must return checks to the depositary bank, notification of nonpayment by the paying bank, indorsement and presentment of checks, same-day settlement for certain checks, the liability of banks for failure to comply with subpart C of this part, and other matters.

(4) Subpart D of this part contains rules relating to substitute checks. These rules address the creation and legal status of substitute checks; the substitute check warranties and indemnity; expedited recredit procedures for resolving improper charges and warranty claims associated with substitute checks provided to consumers; and the disclosure and notices that banks must provide.

[53 FR 19433, May 27, 1988, as amended at 57 FR 36598, Aug. 14, 1992; 57 FR 46972, Oct. 14, 1992; Reg. CC, 60 FR 51670, Oct. 3, 1995; 69 FR 47309, Aug. 4, 2004]

### § 229.2 Definitions.

As used in this part, and unless the context requires otherwise, the following terms have the meanings set forth in this section, and the terms not defined in this section have the meanings set forth in the Uniform Commercial Code:

(a) *Account.* (1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, *account* means a deposit as defined in 12 CFR 204.2(a)(1)(i) that is a transaction account as described in 12 CFR 204.2(e). As defined in these sections, *account* generally includes accounts at a bank from which the account holder is permitted to make transfers or withdrawals by negotiable or transferable instrument, payment order of withdrawal, telephone transfer, electronic payment, or other similar means for the purpose of making payments or transfers to third persons or others. *Account* also includes accounts at a bank from which the account holder may make third party payments at an ATM, remote service unit, or other electronic device, including by debit card, but the term does not include savings deposits or accounts described in 12 CFR 204.2(d)(2) even though such accounts permit third party transfers. An account may be in the form of—

(i) A demand deposit account,

(ii) A negotiable order of withdrawal account,

(iii) A share draft account,

(iv) An automatic transfer account, or

(v) Any other transaction account described in 12 CFR 204.2(e).

(2) For purposes of subpart B of this part and, in connection therewith, this subpart A, *account* does not include an account where the account holder is a bank, where the account holder is an office of an institution described in paragraphs (e)(1) through (e)(6) of this section or an office of a ''foreign bank'' as defined in section 1(b) of the International Banking Act (12 U.S.C. 3101) that is located outside the United States, or where the direct or indirect account holder is the Treasury of the United States.

(3) For purposes of subpart D of this part and, in connection therewith, this subpart A, *account* means any deposit, as defined in 12 CFR 204.2(a)(1)(i), at a bank, including a demand deposit or other transaction account and a savings deposit or other time deposit, as those terms are defined in 12 CFR 204.2.

(b) *Automated clearinghouse* or *ACH* means a facility that processes debit and credit transfers under rules established by a Federal Reserve Bank operating circular on automated clearinghouse items or under rules of an automated clearinghouse association.

(c) *Automated teller machine* or *ATM* means an electronic device at which a natural person may make deposits to an account by cash or check and perform other account transactions.

(d) *Available for withdrawal* with respect to funds deposited means available for all uses generally permitted to the customer for actually and finally collected funds under the bank's account agreement or policies, such as for payment of checks drawn on the account, certification of checks drawn on the account, electronic payments, withdrawals by cash, and transfers between accounts.

(e) *Bank* means—

(1) An *insured bank* as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 18I3) or a bank that is eligible to apply to become an insured bank under section 5 of that Act (12 U.S.C. 1815);

(2) A *mutual savings bank* as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(3) A *savings bank* as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(4) An *insured credit union* as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or a credit union that is eligible to make application to become an insured credit union under section 201 of that Act (12 U.S.C. 1781);

(5) A *member* as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422);

(6) A *savings association* as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) that is an insured depository institution as defined in section 3 of that Act (12 U.S.C. 1813(c)(2)) or that is eligible to apply to become an insured depository institution under section 5 of that Act (12 U.S.C. 1815); or

(7) An *agency* or a *branch* of a *foreign bank* as defined in section l(b) of the International Banking Act (12 U.S.C. 3101).

For purposes of subparts C and D of this part and, in connection therewith, this subpart A, the term *bank* also includes any person engaged in the business of banking, as well as a Federal Reserve Bank, a Federal Home Loan Bank, and a state or unit of general local government to the extent that the state or unit of general local government acts as a paying bank. Unless otherwise specified, the term *bank* includes all of a bank's offices in the United States, but not offices located outside the United States.

NOTE: For purposes of subpart D of this part and, in connection therewith, this subpart A, *bank* also includes the Treasury of the United States or the United States Postal Service to the extent that the Treasury or the Postal Service acts as a paying bank.

(f) *Banking day* means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.

(g) *Business day* means a calendar day other than a Saturday or a Sunday, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day.

(h) *Cash* means United States coins and currency.

(i) *Cashier's check* means a check that is—

(1) Drawn on a bank;

(2) Signed by an officer or employee of the bank on behalf of the bank as drawer;

(3) A direct obligation of the bank; and

(4) Provided to a customer of the bank or acquired from the bank for remittance purposes.

(j) *Certified check* means a check with respect to which the drawee bank certifies by signature on the check of an officer or other authorized employee of the bank that—

(1) (i) The signature of the drawer on the check is genuine; and

(ii) The bank has set aside funds that—

(A) Are equal to the amount of the check, and

(B) Will be used to pay the check; or

(2) The bank will pay the check upon presentment.

(k) *Check* means—

(1) A negotiable demand draft drawn on or payable through or at an office of a bank;

(2) A negotiable demand draft drawn on a Federal Reserve Bank or a Federal Home Loan Bank;

(3) A negotiable demand draft drawn on the Treasury of the United States;

(4) A demand draft drawn on a state government or unit of general local government that is not payable through or at a bank;

(5) A United States Postal Service money order; or

(6) A traveler's check drawn on or payable through or at a bank.

(7) The term check includes an original check and a substitute check.

NOTE: The term *check* does not include a noncash item or an item payable in a medium other than United States money. A draft may be a *check* even though it is described on its face by another term, such as *money order.* For purposes of subparts C and D, and in connection therewith, subpart A, of this part, the term *check* also includes a demand draft of the type described above that is nonnegotiable.

(l) [Reserved]

(m) *Check processing region* means the geographical area served by an office of a Federal Reserve Bank for purposes of its check processing activities.

(n) *Consumer account* means any account used primarily for personal, family, or household purposes.

(o) *Depositary bank* means the first bank to which a check is transferred even though it is also the paying bank or the payee. A check deposited in an account is deemed to be transferred to the bank holding the account into which the check is deposited, even though the check is physically received and indorsed first by another bank.

(p) *Electronic payment* means a wire transfer or an ACH credit transfer.

(q) *Forward collection* means the process by which a bank sends a check on a cash basis to a collecting bank for settlement or to the paying bank for payment.

(r) *Local check* means a check payable by or at a local paying bank, or a check payable by a nonbank payor and payable through a local paying bank.

(s) *Local paying bank* means a paying bank that is located in the same check-processing region as the physical location of the branch, contractual branch, or proprietary ATM of the depositary bank in which that check was deposited.

(t) *Merger transaction* means—

(1) A merger or consolidation of two or more banks; or

(2) The transfer of substantially all of the assets of one or more banks or branches to another bank in consideration of the assumption by the acquiring bank of substantially all of the liabilities of the transferring banks, including the deposit liabilities.

(u) *Noncash item* means an item that would otherwise be a check, except that—

(1) A passbook, certificate, or other document is attached;

(2) It is accompanied by special instructions, such as a request for special advice of payment or dishonor;

(3) It consists of more than a single thickness of paper, except a check that qualifies for handling by automated check processing equipment; or

(4) It has not been preprinted or post-encoded in magnetic ink with the routing number of the paying bank.

(v) *Nonlocal check* means a check payable by, through, or at a nonlocal paying bank.

(w) *Nonlocal paying bank* means a paying bank that is not a local paying bank with respect to the depositary bank.

(x) *Nonproprietary ATM* means an ATM that is not a proprietary ATM.

(y) [Reserved]

(z) *Paying bank* means—

(1) The bank by which a check is payable, unless the check is payable at another bank and is sent to the other bank for payment or collection;

(2) The bank at which a check is payable and to which it is sent for payment or collection;

(3) The Federal Reserve Bank or Federal Home Loan Bank by which a check is payable;

(4) The bank through which a check is payable and to which it is sent for payment or collection, if the check is not payable by a bank; or

(5) The state or unit of general local government on which a check is drawn and to which it is sent for payment or collection.

For purposes of subparts C and D, and in connection therewith, subpart A, *paying bank* includes the bank through which a check is payable and to which the check is sent for payment or collection, regardless of whether the check is payable by another bank, and the bank whose routing number appears on a check in fractional or magnetic form

and to which the check is sent for payment or collection.

NOTE: For purposes of subpart D of this part and, in connection therewith, this subpart A, *paying bank* also includes the Treasury of the United States or the United States Postal Service for a check that is payable by that entity and that is sent to that entity for payment or collection.

(aa) *Proprietary ATM* means an ATM that is—

(1) Owned or operated by, or operated exclusively for, the depositary bank;

(2) Located on the premises (including the outside wall) of the depositary bank; or

(3) Located within 50 feet of the premises of the depositary bank, and not identified as being owned or operated by another entity.

If more than one bank meets the owned or operated criterion of paragraph (aa)(1) of this section, the ATM is considered proprietary to the bank that operates it.

(bb) *Qualified returned check* means a returned check that is prepared for automated return to the depositary bank by placing the check in a carrier envelope or placing a strip on the check and encoding the strip or envelope in magnetic ink. A qualified returned check need not contain other elements of a check drawn on the depositary bank, such as the name of the depositary bank.

(cc) *Returning bank* means a bank (other than the paying or depositary bank) handling a returned check or notice in lieu of return. A returning bank is also a collecting bank for purposes of UCC 4–202(b).

(dd) *Routing number* means—

(1) The number printed on the face of a check in fractional form on in nine-digit form; or

(2) The number in a bank's indorsement in fractional or nine-digit form.

(ee) *Similarly situated bank* means a bank of similar size, located in the same community, and with similar check handling activities as the paying bank or returning bank.

(ff) *State* means a state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands. For purposes of subpart D of this part and, in connection therewith, this subpart A, *state* also means Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory of the United States.

(gg) *Teller's check* means a check provided to a customer of a bank or acquired from a bank for remittance purposes, that is drawn by the bank, and drawn on another bank or payable through or at a bank.

(hh) *Traveler's check* means an instrument for the payment of money that—

(1) Is drawn on or payable through or at a bank;

(2) Is designated on its face by the term *traveler's check* or by any substantially similar term or is commonly known and marketed as a traveler's check by a corporation or bank that is an issuer of traveler's checks;

(3) Provides for a specimen signature of the purchaser to be completed at the time of purchase; and

(4) Provides for a countersignature of the purchaser to be completed at the time of negotiation.

(ii) *Uniform Commercial Code, Code,* or *U.C.C.* means the Uniform Commercial Code as adopted in a state.

(jj) *United States* means the states, including the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.

(kk) *Unit of general local government* means any city, county, parish, town, township, village, or other general purpose political subdivision of a state. The term does not include special purpose units of government, such as school districts or water districts.

(ll) *Wire transfer* means an unconditional order to a bank to pay a fixed or determinable amount of money to a beneficiary upon receipt or on a day stated in the order, that is transmitted by electronic or other means through Fedwire, the Clearing House Interbank Payments System, other similar network, between banks, or on the books of a bank. *Wire transfer* does not include an electronic fund transfer as defined in section 903(6) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(6)).

(mm) *Fedwire* has the same meaning as that set forth in §210.26(e) of this chapter.

(nn) *Good faith* means honesty in fact and observance of reasonable commercial standards of fair dealing.

(oo) *Interest compensation* means an amount of money calculated at the average of the Federal Funds rates published by the Federal Reserve Bank of New York for each of the days for which interest compensation is payable, divided by 360. The Federal Funds rate for any day on which a published rate is not available is the same as the published rate for the last preceding day for which there is a published rate.

(pp) *Contractual branch*, with respect to a bank, means a branch of another bank that accepts a deposit on behalf of the first bank.

(qq) *Claimant bank* means a bank that submits a claim for a recredit for a substitute check to an indemnifying bank under §229.55.

(rr) *Collecting bank* means any bank handling a check for forward collection, except the paying bank.

(ss) *Consumer* means a natural person who—

(1) With respect to a check handled for forward collection, draws the check on a consumer account; or

(2) With respect to a check handled for return, deposits the check into or cashes the check against a consumer account.

(tt) *Customer* means a person having an account with a bank.

(uu) *Indemnifying bank* means a bank that provides an indemnity under §229.53 with respect to a substitute check.

(vv) *Magnetic ink character recognition line* and *MICR line* mean the numbers, which may include the routing number, account number, check number, check amount, and other information, that are printed near the bottom of a check in magnetic ink in accordance with American National Standard Specifications for Placement and Location of MICR Printing, X9.13 (hereinafter ANS X9.13) for an original check and American National Standard Specifications for an Image Replacement Document—IRD, X9.100–140 (hereinafter ANS X9.100–140) for a substitute check (unless the Board by rule or order determines that different standards apply).

(ww) *Original check* means the first paper check issued with respect to a particular payment transaction.

(xx) *Paper or electronic representation of a substitute check* means any copy of or information related to a substitute check that a bank handles for forward collection or return, charges to a customer's account, or provides to a person as a record of a check payment made by the person.

(yy) *Person* means a natural person, corporation, unincorporated company, partnership, government unit or instrumentality, trust, or any other entity or organization.

(zz) *Reconverting bank* means—

(1) The bank that creates a substitute check; or

(2) With respect to a substitute check that was created by a person that is not a bank, the first bank that transfers, presents, or returns that substitute check or, in lieu thereof, the first paper or electronic representation of that substitute check.

(aaa) *Substitute check* means a paper reproduction of an original check that—

(1) Contains an image of the front and back of the original check;

(2) Bears a MICR line that, except as provided under ANS X9.100–140 (unless the Board by rule or order determines that a different standard applies), contains all the information appearing on the MICR line of the original check at the time that the original check was issued and any additional information that was encoded on the original check's MICR line before an image of the original check was captured;

(3) Conforms in paper stock, dimension, and otherwise with ANS X9.100–140 (unless the Board by rule or order determines that a different standard applies); and

(4) Is suitable for automated processing in the same manner as the original check.

(bbb) *Sufficient copy and copy.* (1) A *sufficient copy* is a copy of an original check that accurately represents all of the information on the front and back of the original check as of the time the original check was truncated or is otherwise sufficient to determine whether or not a claim is valid.

(2) A *copy* of an original check means any paper reproduction of an original check, including a paper printout of an electronic image of the original check, a photocopy of the original check, or a substitute check.

(ccc) *Transfer and consideration.* The terms *transfer* and *consideration* have the meanings set forth in the Uniform Commercial Code and in addition, for purposes of subpart D—

(1) The term *transfer* with respect to a substitute check or a paper or electronic representation of a substitute check means delivery of the substitute check or other representation of the substitute check by a bank to a person other than a bank; and

(2) A bank that transfers a substitute check or a paper or electronic representation of a substitute check directly to a person other than a bank has received *consideration* for the substitute check or other paper or electronic representation of the substitute check if it has charged, or has the right to charge, the person's account or otherwise has received value for the original check, a substitute check, or a representation of the original check or substitute check.

(ddd) *Truncate* means to remove an original check from the forward collection or return process and send to a recipient, in lieu of such original check, a substitute check or, by agreement, information relating to the original check (including data taken from the MICR line of the original check or an electronic image of the original check), whether with or without the subsequent delivery of the original check.

(eee) *Truncating bank* means—

(1) The bank that truncates the original check; or

(2) If a person other than a bank truncates the original check, the first bank that transfers, presents, or returns, in lieu of such original check, a substitute check or, by agreement with the recipient, information relating to the original check (including data taken from the MICR line of the original check or an electronic image of the original check), whether with or without the subsequent delivery of the original check.

(fff) *Remotely created check* means a check that is not created by the paying bank and that does not bear a signature applied, or purported to be applied, by the person on whose account the check is drawn. For purposes of this definition, ''account'' means an account as defined in paragraph (a) of this section as well as a credit or other arrangement that allows a person to draw checks that are payable by, through, or at a bank.

[53 FR 19433, May 27, 1988, as amended at 53 FR 31292, Aug. 18, 1988; 53 FR 44324, Nov. 2, 1988; Reg. CC, 54 FR 13850, Apr. 6, 1989; 57 FR 46972, Oct. 14, 1992; 58 FR 2, Jan. 4, 1993; 60 FR 51670, Oct. 3, 1995; 62 FR 13809, Mar. 24, 1997; 69 FR 47309, 47310, Aug. 4, 2004; 70 FR 71225, Nov. 28, 2005]

### § 229.3 Administrative enforcement.

(a) *Enforcement agencies.* Compliance with this part is enforced under—

(1) Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818 *et seq.*) in the case of—

(i) National banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(ii) Member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board; and

(iii) Banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(3) The Federal Credit Union Act (12 U.S.C. 1751 *et seq.*) by the National Credit Union Administration Board with respect to any federal credit union or credit union insured by the National Credit Union Share Insurance Fund.

The terms used in paragraph (a)(1) of this section that are not defined in this part or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).